S. Hrg. 98-124

NOMINATION OF WILLIAM D. RUCKELSHAUS

HEARINGS

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

THE NOMINATION OF WILLIAM D. RUCKELSHAUS TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

MAY 3, 4, AND 5, 1983

Printed for the use of the Committee on Environment and Public Works

U.S. GOVERNMENT PRINTING OFFICE
20-846 O WASHINGTON : 1983

S321-17

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ROBERT T. STAFFORD, Vermont, *Chairman*

HOWARD H. BAKER, Jr., Tennessee
JOHN H. CHAFEE, Rhode Island
ALAN K. SIMPSON, Wyoming
JAMES ABDNOR, South Dakota
STEVE SYMMS, Idaho
PETE V. DOMENICI, New Mexico
DAVE DURENBERGER, Minnesota
GORDON J. HUMPHREY, New Hampshire

JENNINGS RANDOLPH, West Virginia
LLOYD BENTSEN, Texas
QUENTIN N. BURDICK, North Dakota
GARY HART, Colorado
DANIEL PATRICK MOYNIHAN, New York
GEORGE J. MITCHELL, Maine
MAX BAUCUS, Montana

BAILEY GUARD, *Staff Director*
JOHN W. YAGO, Jr., *Minority Staff Director*

CONTENTS

May 3, 1983

OPENING STATEMENTS

Page

Randolph, Hon. Jennings, U.S. Senator from the State of West Virginia 2
Stafford, Hon. Robert T., U.S. Senator from the State of Vermont 1

WITNESSES

Ayres, Richard E., senior staff attorney, Natural Resources Defense Council 17
  Prepared statement 102
Benett, Michael 36
Butler, William A., vice president, government relations and counsel, National Audubon Society 10
  Prepared statement 76
Hair, Dr. Jay D., executive vice president, National Wildlife Federation 3
  Prepared statement 38
Kokinda, Susan, National Democratic Policy Committee 34
  Prepared statement 155
McComb, John A., director, Sierra Club, Washington office 7
  Prepared statement 69
Stanton, Marilyn, Spokane County Air Pollution Authority, Spokane, Wash 31
  Prepared statement 136
Tucker, Dr. Irwin W., president, National Council for Environmental Balance 32
  Prepared statement 142
Wolf, Sidney M., toxic substance attorney, Environmental Action 14
  Prepared statement 89

May 4, 1983 (p. 159)

OPENING STATEMENTS

Baker, Hon. Howard H., Jr., U.S. Senator from the State of Tennessee 167
Bentsen, Hon. Lloyd, U.S. Senator from the State of Texas 163
Baucus, Hon. Max, U.S. Senator from the State of Montana 170
Chafee, Hon. John H., U.S. Senator from the State of Rhode Island 162
Domenici, Hon. Pete V., U.S. Senator from the State of New Mexico 172
Durenberger, Hon. Dave, U.S. Senator from the State of Minnesota 168
Hart, Hon. Gary, U.S. Senator from the State of Colorado 168
Mitchell, Hon. George J., U.S. Senator from the State of Maine 169
Quayle, Hon. Dan, U.S. Senator from the State of Indiana 185
Randolph, Hon. Jennings, U.S. Senator from the State of West Virginia 161
Simpson, Hon. Alan K., U.S. Senator from the State of Wyoming 175
Stafford, Hon. Robert T., U.S. Senator from the State of Vermont 159
Symms, Hon. Steve, U.S. Senator from the State of Idaho 165

WITNESSES

Gorton, Hon. Slade, U.S. Senator from the State of Washington 174
Jackson, Hon. Henry, U.S. Senator from the State of Washington 173
Ruckelshaus, William D., Administrator-designate, Environmental Protection Agency 189

MAY 5, 1983 (p. 217)

Page

Stafford, Hon. Robert T., U.S. Senator from the State of Vermont, opening statement of — 217

MATERIAL SUPPLIED FOR THE RECORD

- American Paper Institute and National Forest Products Association:
  - Position papers, policy statements, etc., list of — 371
  - Transcript of a film regarding industry use of defoliants — 388
- Responses from Mr. Ruckelshaus to written questions from:
  - Senator Baucus — 301
  - Senator Bentsen — 285
  - Senator Burdick — 291
  - Senator Domenici — 277
  - Senator Durenberger — 281
  - Senator Hart — 293
  - Senator Leahy — 310
  - Senator Levin — 312
  - Senator Randolph — 273
  - Senator Simpson — 275
  - Senator Stafford — 261
  - Senator Wallop — 313
- Ruckelshaus, William D.:
  - Biography — 315
  - Letter to the Office of Government Ethics, April 25, 1983 — 316
  - Financial disclosure — 321
  - Speeches, articles, public statements, list of — 340
  - Congressional hearings where Mr. Ruckelshaus testified, list of — 358
  - Letter to Vice President Bush, June 18, 1981 — 413
- Statements submitted for the record:
  - American Consulting Engineers Council — 415
  - Regenstein, Lewis — 419
  - Upholt, William M — 436
- Weyerhaeuser Co.:
  - Comments filed by, list of — 363
  - Letter to Senator Stafford dated May 11, 1983, re comments of Sidney Wolf of Environmental Action — 365

NOMINATION OF WILLIAM D. RUCKELSHAUS

TUESDAY, MAY 3, 1983

U.S. Senate,
Committee on Environment and Public Works,
Washington, D.C.

The committee met at 10 a.m., in room SD-406, Dirksen Senate Office Building, Hon. Robert T. Stafford presiding.

Present: Senators Stafford, Chafee, Symms, Durenberger, Humphrey, Randolph, Mitchell, and Baucus.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator Stafford. The Committee on Environment and Public Works will please come to order.

For the committee, I would like to welcome all of our guests who are here this morning. We regret that in spite of strenuous efforts, we were unable to obtain a larger hearing room this morning, and so we apologize for the crowding. I can report to you that that is the bad news. The good news is that we have secured the larger hearing room on the first floor for our hearings tomorrow and Thursday so that we will have more spacious quarters and less crowding at that time.

Good morning and welcome.

Today's hearing is the first of at least 2 and possibly 3 days of hearings on the nomination of William D. Ruckelshaus to be Administrator of the Environmental Protection Agency. At the outset of this hearing, let me observe that it was exactly 2 years ago yesterday that this committee began consideration of the nomination of Mrs. Ann Gorsuch, as she was then known, to be the Administrator.

Today we will hear from witnesses other than Mr. Ruckelshaus himself. Tomorrow he will testify and, if it becomes necessary, he will appear again on Thursday.

I do have some comments to make on the nomination of Mr. Ruckelshaus, but I shall reserve them until he is present.

For today, I would like only to read a statement which Mr. Ruckelshaus made before the Committee on Agriculture of the House of Representatives early in 1971. Under close questioning from a committee member concerning the role of the newly created Environmental Protection Agency, Mr. Ruckelshaus said the following at that time:

> There is one agency in the U.S. Government whose primary responsibility is to see that the environment is protected, and that responsibility is our number one priority. It does not mean that we simply ignore every other problem that

> exists in society and that we do not pay attention to the impact of what we are doing on other facets of society. But our primary mission is the protection of the environment.

That was Mr. Ruckelshaus in 1971.

One purpose of this series of hearings will be to determine whether Mr. Ruckelshaus is still of that view. I hope that he is. I thank all of you, and I will ask the witnesses to come forward and ask my colleagues to give such opening statements as they may wish.

For that purpose, I welcome my dear and longtime friend, the reigning member of the committee, Senator Jennings Randolph for an opening statement.

OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator RANDOLPH. Thank you very much, Mr. Chairman.

Mr. Chairman, I join you and other members in welcoming those who will share with us their thoughts on the nomination of William D. Ruckelshaus to be the Administrator of the Environmental Protection Agency.

Our witnesses today represent a broad spectrum of organizations whose energies are devoted to the improvement and protection of the environment in the United States. I commend them for their diligence in this field, for it is necessary that all of us maintain an awareness of not only the desirability but the need for a clean and healthy world in which to live.

In the past 15 years, we have made substantial progress in overcoming environmental abuses. In the process we have worked toward developing a system which recognizes that industry and commercial progress can move forward without fouling the air we breathe and the water we drink. Our witnesses have been helpful in working for this balance that permits us to advance on the dual fronts of environmental protection and economic strength.

Tomorrow the committee will hear from Mr. Ruckelshaus. While he has extensive experience in Government, he has been occupied in the private sector for nearly 10 years. Much has taken place during that period and most of our witnesses have been actively involved in those events. I look forward to receiving their testimony, their evaluations of the Environmental Protection Agency, and their observations about Mr. Ruckelshaus as a potential Administrator.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Randolph.

Senator Chafee, do you have an opening statement?

Senator CHAFEE. Thank you, Mr. Chairman. No, I do not. I want to welcome the witnesses today and we look forward to hearing their testimony.

Thank you very much.

Senator STAFFORD. Thank you very much.

Senator Mitchell, do you have an opening statement?

Senator MITCHELL. No; I do not, Mr. Chairman. I may wish to make a statement tomorrow morning in Mr. Ruckelshaus' presence. For now, I, with Senator Chaffee and yourself and Senator Randolph and

Senator Durenberger, welcome the witnesses and look forward to hearing their testimony.

Senator STAFFORD. Thank you very much.

Senator Durenberger.

Senator DURENBERGER. I, too, Mr. Chairman, will defer my statement until tomorrow morning.

Senator STAFFORD. It appears since the chairman has made the same reservation, there may be several more opening statements tomorrow.

I always dislike having to do this, but I think in fairness to everybody, the fact is that the Senate has been in session, now, I believe, for 15 minutes, and under our rules, we must terminate by 12 o'clock. I again point out that we have asked the witnesses to limit their oral presentation so that we can finish both panels within the time we have available.

Your full statements will be made a part of the record. So the committee would deeply appreciate it if they would be summarized as briefly as the points can properly be made.

We will simply have to control the time so we can finish by 12 o'clock. I am sorry to say that, because I know how much time and trouble witnesses have gone to to prepare statements and to go to the trouble of being here with us.

So having said that, having noticed how articulate some members of the panel are, we will begin.

I think we might follow this order as lisited: Dr. Hair to lead, followed by Mr. McComb, Mr. Butler, Mr. Wolf, and Dick Ayres.

Dr. Jay Hair, executive vice president of the National Wildlife Federation, will be first.

STATEMENT OF DR. JAY D. HAIR, EXECUTIVE VICE PRESIDENT, NATIONAL WILDLIFE FEDERATION

Dr. HAIR. Thank you Mr. Chairman and members of this distinguished committee. I am here to urge that we take the first step on the road to environmental recovery by confirming William Ruckelshaus as the next Administrator of the U.S. Environmental Protection Agency.

Mr. Ruckelshaus is a man of proven confidence, independence, and dedication to public service. He has stated unequivocably that if confirmed, he will demand, above all else, iron integrity for himself and his staff.

We believe him. Bill Ruckelshaus knows, as a student of government, that government cannot work unless the public perceives its officials to be above reproach.

This is particularly true of the EPA, an agency whose constituency is every person who breathes the air, drinks the water, or is exposed to the 40-plus million tons of hazardous wastes generated each year by our industrial society.

The EPA belongs to all of us, and the Natural Wildlife Federation, as the Nation's largest conservation organization, is pleased to support his nomination.

He will need all the support he can get. The difficulties the Administrator will face are exceeded only by their importance to the health of our citizens and the natural systems on which we all rely for our basic life support. We do not expect to agree at all times with his actions. We do, however, expect that these actions will be based on the best available scientific information. We do expect that these actions will result from an open and intellectually honest process.

We fervently hope that the iron integrity and good judgment that permeates these actions will once again regain the public confidence the agency has, quite frankly, sadly lost during the last 2 years.

In November 1980, the President-elect's Task Force on the Environment, on which Mr. Ruckelshaus was a member, submitted a list of suggestions for improving the management of our environmental laws. Accompanying this report was a proposed statement of environmental philosophy that the task force recommended then President-elect Reagan deliver at his earliest convenience. In part, this statement includes the following commitment:

> As we look for ways to make life better for our people, the hallmark of our efforts will be balance and consensus. For too long, we have attempted to solve our problems in an atmosphere of hostility and contentiousness.

Sadly, and unfortunately, President Reagan never delivered that statement, and the hopes contained therein have not come to pass during the 2 years of the Reagan administration. To the contrary, consensus has been destroyed in an attempt to impose a particular political ideology on the fundamentally nonideological issue of the environment. Balance has been lost to a point where, by a margin of 2 to 1, Americans feel that the Reagan EPA is "biased in favor of industries that pollute."

An atmosphere of hostility and contentiousness reigns, both inside and outside the Agency. As budgets are slashed and employees are shuffled, Agency cleanup funds are perceived as so much political payoff. When Bill Ruckelshaus left the EPA in 1973, it was considered one of the best run agencies in the Federal Government. But now, according to a recent New York Times poll, one-third of the American public thinks Reagan officials at the EPA have broken the law and helped polluting industries. Fourteen top EPA officials have resigned since February of this year, and the institutional memory of career professionals has been decimated.

In short, instead of inheriting a proud legacy of balance and consensus, Mr. Ruckelshaus must re-create both out of a present atmosphere of suspicion and uncertainty.

We recognize that one person cannot correct these abuses in 1 day, 1 week, or even perhaps during his tenure, but we must try. We suggest the following first steps on the long road to recovery.

No. 1, increase the EPA budget, especially State grants and research and development. States are groaning under the burden of defederalized environmental programs with few funds for their administration. Research and development has been cut 38 percent since 1981, particularly long-term R&D that focuses on on emerging environmental health problems have been cut. Both programs should be restored, at least to their 1981 funding level.

No. 2, recognize the importance of developing and implementing a plan to control acid rain. The United States sadly stands virtually alone in the world in refusing to recognize the environmental disaster these emissions portend. We have unnecessarily alienated a staunch ally by trivializing Canadian concerns on this issue and by allowing the relaxation of existing SO_2 controls.

Bill Ruckelshaus is perhaps one of the few people in the country with the stature and credibility needed to convince the Reagan administration that immediate action, not just more research, is needed to abate this hazard.

No. 3. Mr. Ruckelshaus and this administration need to support a strong Clean Air Act and Clean Water Act. If there are ways to get more bang for our regulatory buck under these laws, we want to hear them, but these laws must not be subject to wholesale revision in the absence of alternative, enforceable strategies to achieve the clean air and clean water objectives the public so strongly demands and supports.

We are particularly interested in statutory improvements also: One, control nonpoint water pollution; two, protect our fast dwindling national inventory of wetland ecosystems; and three, control toxic wastes.

No. 4, Mr. Ruckelshaus must stay EPA's historical course on ocean dumping of harmful wastes. Prior to 1981, it was EPA's firm position that ocean dumping of harmful wastes should be phased out. The EPA now, however, has adopted an "equal balancing policy" that selects the medium for disposal based on cost. The results of this policy, if fully implemented, will be a rush to low-cost ocean disposal in preference to higher cost, land-based options—an out-of-sight, out-of-mind mentality.

Fifth, and finally, force Federal facility compliance with environmental laws. We cannot continue to have a double standard for our environmental laws, a standard which excludes Federal facilities from the enforcement program. When EPA listed 419 priority sites for cleanup under the Superfund program last January, not one of these sites was associated with a Federal facility. A government that does not lead by example cannot lead at all.

Let me say that while we support this nomination, we hope this committee will question Mr. Ruckelshaus closely concerning his views on further midcourse corrections in our clean-air and clean-water laws. We are concerned about a 1981 letter to Vice President Bush in which Mr. Ruckelshaus outlined his strategy to change the structure of the Clean Air Act. In this letter, Mr. Ruckelshaus stated that the Clean Air Act is "causing our society to spend very large sums of money for marginal benefits and thus should be changed."

In particular, he states in this letter that setting air quality standards at the level where adverse health and environmental effects occur is "inherently irrational."

The National Wildlife Federation does not agree that the present statutory structure is inherently irrational or its benefits marginal. Mr. Ruckelshaus should clarify his intent before the wrong conclusions are drawn. Never has there been a greater need for candor and specificity in matters affecting the public health.

Let me conclude by saying the five initiatives outlined above are ripe for immediate action. They must be implemented. We recognize that the EPA is presently an exhausted, disabled agency that needs an immediate transfusion of money, people and most importantly, public confidence.

The National Wildlife Federation is committed to doing what it can to help with this effort. While time is needed to get the agency back on its feet, let's make that commitment of support now, not only by confirming Bill Ruckelshaus as Administrator, but by providing him with congressional and public support he will need to do his job.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Mr. Hair.

It would be the Chair's suggestion that we withhold questions until the entire panel has had a chance to make their presentation, unless there is some objection.

Senator RANDOLPH. Mr. Chairman, how long will the panel take for the formal presentation?

Senator STAFFORD. We have asked them all to stay within 10 minutes each on this panel and the second group of speakers, 5 minutes. So our first speaker only consumed, actually, about 5 minutes, which is a tradition worthy of northern New England, I might say.

Dr. HAIR. Thank you, sir.

Senator STAFFORD. Now, having made those observations, the Chair is going to violate his own suggestion by a side item and say that in referring to the celebrated Ruckelshaus letter and tactics, it is worth noting that they didn't work as far as the chairman of this committee is concerned.

Dr. HAIR. I noted that, sir. We are pleased.

Senator STAFFORD. Having just come back from Finland, on whose time I am still running, I am sorry to say, one of the interesting developments there in an international meeting involving nearly 100 nations was the fact that the Finish Government is just creating a cabinet rank post to deal with the environment in that country. The principal problem: Acid rain. While I was there, believe it or not, the Soviet newspaper Izvestia, or Pravda, one or the other, ran an article criticizing some of the industries in northern U.S.S.R. The criticism: They were unduly polluting the atmosphere with sulfur oxides causing acid rain.

I just thought that might be of interest to you.

Senator RANDOLPH. Excuse me. Are we going ahead with the panel?

Senator STAFFORD. Unless you have an aside item, too.

Senator RANDOLPH. I don't know what the word means.

Senator STAFFORD. You taught it to me.

Senator RANDOLPH. I will take just 30 seconds to clarify. As I listened, you are strongly in favor of the nomination being approved and sent to the Senate, is that correct?

Dr. HAIR. Yes, sir, that is correct.

Senator RANDOLPH. Then you were very strongly in opposition to a certain position that Mr. Ruckelshaus has taken on acid rain.

Dr. HAIR. We want those positions, during the process of these hearings, to be clearly spelled out.

Senator RANDOLPH. Then you come as an unqualified supporter? I am trying to reconcile the mix that you have here this morning, because your first words were strongly in favor of his becoming the Administrator.

Dr. HAIR. The reason that we strongly support Mr. Ruckelshaus for this position, first, he is a known entity, and we believe that over time, he has reached the tough balance that is required in terms of making these tough environmental and economic decisions.

The agency is crippled. It needs help instead of confrontation. We want to be helpful with Mr. Ruckelshaus in trying to restore public confidence in the Environmental Protection Agency. This is not an endorsement in any way of the Reagan administration's environmental policies. We have grave concerns in many, many areas.

But we believe it is time to get back to business in restoring the confidence in the Environmental Protection Agency. Mr. Ruckelshaus, in our opinion, is a person well qualified to do that.

Senator **Randolph.** Thank you, Mr. Chairman.

Senator **Stafford.** Thank you, Senator Randolph.

Now we will go back to the witness list. Mr. John McComb, director, Washington Office, Sierra Club. We would be very happy to hear you.

STATEMENT OF JOHN A. McCOMB, DIRECTOR, SIERRA CLUB WASHINGTON OFFICE

Mr. **McComb.** Thank you, Mr. Chairman and members of the committee.

The task ahead for the Reagan administration and for the new Environmental Protection Agency is an arduous, perhaps even formidable one. It is to rebuild public confidence in EPA as the strong, committed protector of the environment, especially as it relates to public health and safety.

Frankly we are disturbed by elements of the past record of Mr. Ruckelshaus, both as former EPA Administrator and especially as a senior vice president for the Weyerhaeuser Co. In contrast to his predecessor, his widely acknowledged competence and integrity could simply result in more efficient administration of the same misguided policies.

Mr. Ruckelshaus has a new client now: the American public. Will he adequately represent that client? He has the ability, but does he have the personal commitment and sufficient authority within the Reagan administration? Competence alone does not mean he will represent that new client well.

A number of questions need acceptable answers. It should not be sufficient merely to improve on the dismal law enforcement record of his predecessor. Likewise, it should not be sufficient simply to seek some restoration of the budgetary resources necessary for EPA to do its job, although a minimum standard here would be a fiscal year 1984 level of $1.35 billion.

Crucial questions remain about how Mr. Ruckelshaus will exercise his administrative discretion. Will he prepare and release an actual timetable for cleaning up the 491 priority hazardous waste sites identified under the Superfund program? Will he establish tough controls on the more than 100 toxic pollutants now being discharged by industry into our lakes and streams?

What kinds of changes will he propose in laws such as those regulating clean air and clean water which are now under review in Congress? A key test here would be support for any legislation that would reduce by 50 percent the pollution that causes acid rain.

How will he proceed with the staffing of EPA's top positions? Who will be responsible for fulfilling details of public expectations of EPA? These are questions to which the Senate deserves satisfactory answers—and so does the American public.

The Sierra Club is concerned that Mr. Ruckelshaus does not agree with the structure and, in some cases, the goals of the statutes he will implement and enforce as EPA Administrator. It is difficult for the public to regain confidence in the EPA if the head of the agency believes that the statutory requirements he is bound to enforce are unreasonable and ought to be modified or eliminated. This was precisely the attitude taken by former Administrator Burford which led to the abuses in administering the laws and which eventually resulted in her resignation.

Probably no greater example of this problem can be found than in the area of air pollution control. Of special concern to the Sierra Club is the prevention of significant deterioration, also known as the PSD program.

It was a lawsuit brought by the Sierra Club against Mr. Ruckelshaus in his capacity as the first EPA Administrator that forced the creation of the PSD program. The Sierra Club contended that it was inconsistent with the goal of the act to "protect and enhance" air quality for the EPA to approve of State implementation plans that did not contain a program to prevent significant deterioration of air quality. But Mr. Ruckelshaus felt he had no obligation to protect clean air regions. His interpretation of the act was ultimately overturned in the courts.

His more recent statements regarding the Clean Air Act indicate that his basic attitude toward the PSD program has not changed. Given this background, we question whether he will be able to enforce it by any greater enthusiasm than the previous Administrator. The American public is not interested in making fundamental changes to the Clean Air Act. They want Mr. Ruckelshaus to enforce it fully. Is he willing to do that?

Not only does Mr. Ruckelshaus appear to share the views of his predecessor, Mrs. Burford, regarding the structure and objectives of some of the environmental statutes, but he shares her view of the need for regulatory relief. This is an idealistic concept which maintains that the Government can regulate pollution and other undesirable corporate activity without actually regulating it. This was an approach that was tried in the 1950's and 1960's and failed.

The regulatory statutes of the 1970's were passed because the American people were demanding action, and a more direct approach was the only one which showed the promise of results. Significant results in population control were, in fact, achieved during the 1970's.

Mrs. Burford did not agree with this approach and sought to modify existing EPA regulations to deregulate the affected industries.

Mr. Ruckelshaus endorses the regulatory relief concept, too In a letter to Vice President George Bush regarding the administration policy on the Clear Air Act amendments, Mr. Ruckelshaus said:

> Deregulation is and has been a central part of the Administration's economic recovery program, and the Clean Air Act amendments are the first big test of how successful that program will be in keeping with social regulation.

He further stated in a letter to Ernest Minor of the Council on Environmental Quality regarding regulation of carcinogens, "The public does not understand how extreme our current statutory framework is.'' Will Mr. Ruckelshaus' regulatory relief differ from Mrs. Burford's relief only in that it is not outright illegal?

A measure of Mr. Ruckelshaus' intentions will be the attitudes and backgrounds of the individuals he brings into the other top-policy positions at EPA. Almost all the top-policy people at EPA under Mrs. Burford came from the industries EPA regulates. Part of the loss in public confidence in EPA derives from the active and perceived "cronyism" between the regulators and the regulated.

Those with substantial industry connections have administered environmental laws to give the benefit of the doubt to the regulated industries rather than to protection of the public health and the environment.

Mr. Ruckelshaus should not recruit as subordinates people who have a similar pattern of substantial ties to the industries EPA regulates.

If he simply replaces old industry people with new ones, the public is bound to believe that the Ruckelshaus EPA is simply the old Burford EPA with a new bow on its hat.

The history of Mr. Ruckelshaus' past policies and remarks does not give us confidence that the manner in which environmental laws are administered will significantly change from the pattern over the past 2 years. On the other hand, we do not rule out of the possibility that he could do the job of environmental protection which a strong majority of the American public expects from the EPA. We do urge the Senate to seek understanding and commitments from Mr. Ruckelshaus and the administration as to what kind of EPA we will have in the future.

Thank you.

Senator STAFFORD. Thank you very much, indeed, Mr. McComb, for a very good statement.

The next witness will be Mr. William Butler, vice president for Government relations, National Audubon Society.

Senator RANDOLPH. Mr. Chairman, I am going to insist that we be given perhaps 30 seconds. I want to clarify what was said. Are you for or against Mr. Ruckelshaus?

Mr. MCCOMB. I thought you would ask that question, as a matter of fact. I don't think we have the answer to that. We are withholding judgment on that question pending what kind of answers you get in your hearings tomorrow and the day after.

Senator RANDOLPH. Thank you, Mr. Chairman.

Senator STAFFORD. Thank you, Senator Randolph.

I think you are suggesting the questions you want answered during the next day or two, and that will be the basis for your final judgment. Am I correct on that?

Mr. MCCOMB. Well, I think the final judgment is going to be rendered after some years of performance, Senator, in the particular case.

Senator STAFFORD. I see. All right. Thank you.

The next witness will be Mr. William Butler, who is vice president for Government relations and counsel of the National Audubon Society.

STATEMENT OF WILLIAM A. BUTLER, VICE PRESIDENT, GOVERNMENT RELATIONS AND COUNSEL, NATIONAL AUDUBON SOCIETY

Mr. Butler. Mr. Chairman, members of the committee, my name is William Butler. I am vice president for Government relations and counsel of the National Audubon Society. We appreciate the invitation to appear before you today to express our position on the appointment of William Ruckelshaus as Administrator of the Environmental Protection Agency.

I. SUMMARY

In summary, our views are as follows: Mr. Ruckelshaus is an experienced candidate for the job. Subject to the committee receiving satisfactory answers from him regarding concerns we and others here today raise, we believe we can work with him.

We are, however, greatly troubled by some positions taken by Mr. Ruckelshaus on environmental matters. We fully recognize that some of these expressed while employed by Weyerhaeuser may have been the comments of an advocate for his employer's interests. We would like to share our concerns with this committee, nonetheless, so that Mr. Ruckelshaus might be asked which of these views are his own, and which he was advocating on behalf of Weyerhaeuser. Neither we, nor, we think, Mr. Ruckelshaus, believe that what is best for Weyerhaeuser is necessarily best for the rest of us. As Administrator of EPA, Mr. Ruckelshaus should be the people's advocate, responsible for the safety, health, and environmental quality shared by us all.

Regardless of the personal qualities and suitability of Mr. Ruckelshaus for this position, the National Audubon Society will judge his record as Administrator on whether or not he makes the necessary policy changes at the Environmental Protection Agency. Therefore, our position now is one of wait and see. In the final analysis, President Reagan is the ultimate Administrator of EPA. We have seen no evidence that the policies of Mr. Ruckelshaus' predecessor, Anne Burford, were disapproved by the White House. Therefore, Mr. Ruckelshaus' success or failure from our perspective will depend upon his ability to bring about changes in EPA policies to date basically dictated by the White House. Further, to the extent that our concerns outlined below represent Mr. Ruckelshaus' own views, as opposed to Weyerhaeuser's, we are distressed by them and think that he might do well to reassess these positions in light of his new responsibilities, just as he is reassessing all other policies of the agency he inherits in order to make them reflect the best interests of the country as a whole. What follows is an expansion upon these thoughts.

II. THE RUCKELSHAUS CANDIDACY

Mr. Ruckelshaus is well qualified to serve as Administrator of the Environmental Protection Agency. He is obviously experienced. He did a good job as the first Administrator of the Agency, although the environmental community, including the National Audubon Society, by no means agreed with all of his decisions at that time and does not expect to agree with all of his decisions in his second stint as Administrator.

We recognize that reasonable people can and do differ. Our Pacific Northwest chapters in the last few years have had several serious differences of opinion with Weyerhaeuser and Mr. Ruckelshaus. However, his personal qualities are certainly those which the job requires: Integrity, independence of mind, candor, self-deprecation, humor, and above all, pragmatism.

We await the specifics of Mr. Ruckelshaus' decisions here and elsewhere before passing any judgment. We remain frankly skeptical, however, that the President and the Director of the Office of Management and Budget will be responsive to the environmental needs of the American people. We hope Mr. Ruckelshaus will modify not only the White House views, but those of his own policy positions which, in our opinion, run contrary to those needs. Illustratively, we look for a significant departure from the Agency's previous stands opposing the reauthorization and/or amendment of strengthened Clean Air, Clean Water, Hazardous Waste Disposal, and Pesticide Acts, among others.

III. OUR CONCERNS

Having first acknowledged that Mr. Ruckelshaus is clearly qualified for the job, we now wish to share with the committee specifically the basis for some of our concerns regarding Mr. Ruckelshaus' policy views. We reiterate our uncertainty as to whether these are the views of an advocate for a client, or the personal views of the candidate himself. To the extent that they constitute the latter, and some apparently do, we think that it is the responsibility of this committee during these confirmation proceedings to examine them thoroughly so that the Senate, and the country at large, might know the man, as opposed to the media myth, that they are getting as the next EPA Administrator.

A. THE CLEAN AIR ACT

As the committee knows, the American public overwhelmingly supports a strong Clean Air Act. This support has increased markedly over the last 2 years, as the Congress has grappled with the Act's reauthorization. In a recent poll for Business Week, conducted by the Harris poll, only 7 percent of the respondents favored weaker clean air laws, down from 17 percent 2 years earlier.

The American public recognizes the costs involved in cleaning the air and feels that the benefits are worth the expenditure. By a margin of 78 percent to 17 percent the public felt, in the same Harris poll, that even if jobs might be saved and a factory prevented from closing down, that factory should not be exempted from pollution-control requirements. Despite the continuing problems of the auto industry, only 26 percent favored relaxing auto pollution standards. Only 19 percent supported easing air standards to increase the use of coal and high sulfur oil. Other polls confirm these findings.

In recognition of the desires of the public, this committee, and its counterpart in the House, have rejected attempts by the administration and polluting industries drastically to weaken the current law. While the National Audubon Society has many serious disagreements with S. 768, the committee's clean air compromise, its passage in committee last year was clearly a defeat for those special interests who sought more devastating changes to the law. Mr. Ruckelshaus apparently represented one of those interests.

Our review of Mr. Ruckelshaus' correspondence and speeches on the Clean Air Act indicate that he was a strong supporter of H.R. 5252, the Administration's clean air amendments. The record further indicates that he sought an active role in pushing the Administration's positions through the Congress.

Mr. Ruckelshaus has repeatedly argued that certain aspects of the Clean Air Act result in unnecessary public expenditure of hundreds of millions of dollars. In may 1982, he stated before an audience in Los Angeles that,

> America will be spending hundreds of million of dollars to conform to certain aspects of the Clean Air Act and other environmental legislation. These millions will produce very little benefit. That is a tragedy for this country.

In testimony before this committee on April 9, 1981, he stated that,

> I am convinced that our present statutory scheme is causing our society to spend very large sums of money for marginal public benefit.

We emphatically disagree with these contentions. As the poll data described above show, so do the American people.

Industry claims of macroeconomic harm caused by the Clean Air Act are simply false. Moreover, the most comprehensive cost benefit study done to date indicates that the benefits of the Clean Air Act outweigh its costs by over $4 billion. Nowhere in Mr. Ruckelshaus' writings, that we have been able to find, has he provided any detailed support for his statements.

Only 10 days after the inauguration of this administration, Mr. Ruckelshaus wrote Vice President Bush to discuss the possibility of "fundamental change in laws like the Clean Air Act." Six months later he elaborated his thoughts to Vice President Bush in another letter, in which he laid out the problems facing the administration in its attempts to rewrite the Clean Air Act. In his letter, Mr. Ruckelshaus argued, and these are quotes:

> The Clean Air Act is a complicated pervasive law that is causing our society to spend very large sums of money for marginal benefits and thus should be changed. . . . The Congress is largely ignorant of the impact of the law. . . . Public support.

and by that he meant for weakening changes like those in H.R. 5252—

> is constantly undergirded by a strong media bias in favor of continued stringent environmental regulations. . . . Obtaining change in the law is further complicated by the rhetorical difficulty of advancing an argument which appears to place profit over public health.

That is the end of the quotations.

Despite these problems Mr. Ruckelshaus concluded that the situation "is difficult but not hopeless." He concluded, "I think you can win."

Mr. Ruckelshaus went on to propose a legislative strategy for victory including press conferences and the marshalling of business and academic allies. His strategy would, he suggested, permit "Bob Stafford to back away from his public position and save face with his constituents and the environmentalists."

Mr. Ruckelshaus' support was not passive. For example, Mr. Ruckelshaus' correspondence indicates strong specific support for H.R. 5252. He wrote to Congressman Wyden, among others, that,

> H.R. 5252 retains the basic approach to cleaning up our nations's air that has worked well to date, but removes or changes those aspects of the program that from experience we have learned are inefficient or too costly. It is a sensible streamlining that still keeps protection of the people's health as its fundamental goal.

Obviously we are very distressed by these views. So should be this committee, which has, for the most part, already rejected them and so should the American people.

B. COST/BENEFIT ANALYSIS

The second issue I would like to focus on briefly today is the proper role of cost/benefit analysis in environmental legislation and decision-making. Many of the members of this committee were the architects of the environmental laws we have on the books today. For the most part these laws have categorically rejected giving a determinative role to qualitative or quantitative cost/benefit analysis indeciding questions of public health and environmental protection. Instead, they have opted for a preventative approach to protecting public health.

Mr. Ruckelshaus' letters and speeches strongly support a cost/benefit balancing approach to protecting public health. He urges cost/benefit balancing, for example, in setting ambient air standards under the Clean Air Act, a position so at variance with commonly held views of what is appropriate that it was not even seriously considered by this committee. Mr. Ruckelshaus wrote to Vice President Bush that,

> My own belief is that a logical approach necessitates changing the process by which we currently set ambient air quality standards. The standards are based entirely on the establishment of a level of air quality at which adverse health or environmental effects occur. The law then mandates a margin of safety be established below these health or environmental effects and a numerical ceiling be set.

Senator Stafford. Mr. Butler, I must ask you to summarize in 1 minute or less at this point.

Mr. Butler. Good. I will do that. He goes on to say:

> I don't believe that it is possible to tinker with or fine tune the regulatory program and make any real progress. There must be a clear upfront recognition that attempting to cope with air pollution by using health and environmental affects as the sole determinant of national policy is inherently irrational.

III. CONCLUSION

Moving on to the conclusion, over the last 2 years, the American public has lost faith in the Environmental Protection Agency. This crisis in confidence has occurred because the public perceives that Mr. Ruckelshaus' predecessor and her appointees were more interested in protecting polluters than public health or the environment. New appointees and an increased budget are necessary but not sufficient to restore that confidence. There must be significant changes in EPA policy.

Mr. Ruckelshaus has the opportunity to restore that confidence by making the necessary policy changes. We hope that he does. But as we have highlighted in this testimony, Mr. Ruckelshaus has supported the administration's past attempts to weaken the Clean Air Act, attempts we essentially opposed and the committee largely rejected. We do not share his enthusiasm for substituting a cost/benefit balancing test for health based standards. Neither do we endorse his general observation that current environmental statutes cause us to spend large sums unnecessarily with only marginal benefits. We do not think that these views are supported by the American people, either. Whether they were stated as his own or Weyerhaeuser's positions, we do not know, and hope the committee finds out, but we hope that as Administrator, he will modify them. The health and environment of America will be the losers of he does not.

I thank you very much.

Senator STAFFORD. Thank you very much, Mr. Butler, for your cooperation and a very good statement.

The next witness will be Mr. Sidney M. Wolf, toxic substance representative of Environmental Action.

Mr. Wolf.

STATEMENT OF SIDNEY M. WOLF, TOXIC SUBSTANCE ATTORNEY, ENVIRONMENTAL ACTION

Mr. WOLF. Good morning.

My name is Sidney Wolf, toxic substance attorney for Environmental Action.

I wish to thank the U.S. Senate Committee on Environment and Public Works for the opportunity to testify on this crucial matter of the Senate confirmation consideration of a new EPA Administrator.

The person chosen to head and throw a cloak of respectibility over EPA is William Ruckelshaus, senior vice president of the multibillion dollar Weyerhaeuser Co., a company which produces lumber, paper, plywood, wallboard, and chemicals and which is second only to the Federal Government in owning land in the United States.

Mr. Ruckelshaus has a good guy image because of his serving as the first Administrator of EPA and his resignation as Deputy Attorney General during the famed Saturday night massacre of October 1973.

No one doubts the personal integrity of Mr. Ruckelshaus, nor the sincerity of the beliefs he happens to hold about pollution control, which, nevertheless, may not be shared by many people concerned about environmental and public health protection. But we have a disturbing contradiction here of a man with an image of Mr. Clean who was directly responsible for the activities of a company which made it one of the Environmental Action's filthy five companies in 1981.

It should be emphasized that Mr. Ruckelshaus is responsible for the pollution record and views of Weyerhaeuser, good and bad. He was senior vice president for law and corporate affairs, and a member of the senior management committee, which sets company policy.

As a senior vice president, he oversaw four company departments: Government affairs; corporate communications-public affairs; legal; and environmental and regulatory affairs.

During the confirmation inquiries, you will come across statements and correspondence relating to pollution and environmental issues from other Weyerhaeuser personnel. They cannot be disassociated from Mr. Ruckelshaus, who set the policies they followed and was responsible for directing their actions.

Today, I want to describe the serious, flagrant, persistent and widespread disregard for environmental well-being which has been the behavior of the Weyerhaeuser Corp.

Like it or not, Mr. Ruckelshaus emerges from Weyerhaeuser, and what that company has done, good and bad, is a reflection upon him and the kinds of attitudes and conflicts of interest which he brings to the Agency.

It would be pollyannish not to think that a major reason President Reagan nominated Mr. Ruckelshaus was for a favorable public image, much the same reason Weyerhaeuser hired him.

Large fines and settlements invariably represent pollution episodes of a corresponding magnitude. In 1979, EPA sought a $750,000 fine against Weyerhaeuser for water pollution violations caused by the company's huge Longview, Wash., paper mill. The company settled out of court in 1980 and paid $135,000.

Our research, which by no means is complete, has found that for 277 air and water pollution violations between 1977 and 1982, Weyerhaeuser was cited for fines totaling $855,361 and settled or paid $207,340.

Following the eruption of Mount St. Helens in May 1980, Weyerhaeuser began to remove damaged timber from around the Toutle River. The largest and most blatant violation of the State Shorelines Act, was what Washington State Assistant Attorney General Bob Jensen called Weyerhaeuser's indiscriminate clearcutting of all the timber in the area despite the restriction in its emergency permit that only damaged timber could be taken.

Weyerhaeuser took advantage of the enormous natural disaster to make a quick profit, with the result being serious environmental damage. The degradation of water quality, soil erosion, and loss of habitat affecting the rebuilding of fish and water resources were impacts that a Washington Department of Ecology memorandum declared "will have an adverse effect on the environmental quality and economic stability of the region and the State of Washington as a whole."

Weyerhaeuser is an integrated forest products company with manufacturing operations and timber holdings in 27 States. Its poor environmental record extends to many of these other States.

I detail in my more lengthy written statement significant pollution problems in Weyerhaeuser's pulp and paper plant in Rothschild, Wis., and its gypsum plant in Briar, Ark.

Oklahoma and Arkansas have experienced Weyerhaeuser's clearcutting practices, stirring the National Wildlife Federation to file a stockholder's petition in spring 1980 asking the company to institute wildlife guidelines on company lands in these States.

In exchange for dropping the petition, the company promised to limit the size of clearcuts so as not to damage land and waterways.

When we looked into this matter 2 years ago, we noted that according to Rick Jamison, president of the Oklahoma Wildlife Federation, Weyerhaeuser had promised before to abide by similar restrictions but did not do so.

Mr. Ruckelshaus will be in charge of the much abused Superfund. He comes from a company with significant Superfund experience from coast to coast, being implicated in a least three of the worst dumps in the Nation which have been placed on the Superfund list.

We are truly in trouble if the Ruckelshaus EPA capitulates to sweetheart Superfund settlements of the kind which occurred at the Seymour, Ind., dump, where Weyerhaeuser was one of the dumpers. The company escaped with a settlement totaling a mere $82,930.

There was some question whether Weyerhaeuser dumped at the Epping, N.H. Superfund site which was operated by Keefe Environmental Services. In our attachments, we have included what correspondence was available to us which concluded that Weyerhaeuser led to EPA the existence of any of their materials at Keefe.

Mr. Ruckelshaus will be faced with many difficult decisions relating to protecting the public from dangerous pesticides. Hopefully, he will not bring to EPA the desires and views of Weyerhaeuser. Weyerhaeuser has been urging EPA to lift the restrictions on the use of 2, 3, 5-T, a pollutant made by Dow Chemical, which contains the most potent form of dioxin.

I have attached a letter from D. E. Rush, a Weyerhaeuser vice president, to EPA's ex-deputy administrator, John Hernandez, declaring that the 2, 4, 5-T is needed to clear the company's Southern conifer plantations of weeds.

Ironic, isn't it, that it was Mr. Hernandez who took the unethical and unprecedented step of allowing Dow to edit an EPA report on dioxin.

When Hernandez's counterpart in the EPA banned the herbicide in 1979, she gave as one of the reasons the remarkable high correlation between the forest spraying season in Oregon and the unusually high rate of miscarriages there.

Hopefully, when reviewing pesticides, the decisions of Mr. Ruckelshaus will be nearer to the administration's concern for the rights of the unborn than to Weyerhaeuser's preference for protecting their conifers from weeds.

Weyerhaeuser continues to spray the forests of Oregon and Washington with 2, 4-D, which has not been banned by EPA. Both pesticides cause cancer and birth defects in animal experiments.

Mr. Ruckelshaus is a director on boards of some other organizations and companies which have been engaged in activities unfriendly to human health and the environment.

He serves, for example, as a director of the American Paper Institute, the timber industry's trade association. The API has consistently and conscientiously lobbied against every major piece of environmental legislation enacted in the 1970's and 1980's. The API sued EPA in 1979 to block restrictions on discharging wastes into the Nation's waterways.

Weyerhaeuser joined that suit, and EPA settled last fall by agreeing to weaken the water pollution rules.

All that glistens is not gold, so the saying goes, and with the political image-making of today, one has to scratch below the surface to find the truth. You don't have to scratch very far in this case.

Mr. Ruckelshaus is admittedly personable and a good manager, but given the views he has expressed since leaving Government and the environmentally destructive and insensitive activities of a corporation where he was in charge of environmental activities, it is imperative that we not relax our vigilance and adopt the view that now all is well at EPA. It is up to Mr. Ruckelshaus to demonstrate by his actions, not his image, that EPA will do its job well.

Thank you, very much.

Senator STAFFORD. Thank you, very much, Mr. Wolf, for your statement.

It was certainly straightforward.

The final member of this panel will be Mr. Richard E. Ayres, senior attorney, Natural Resources Defense Council.

STATEMENT OF RICHARD E. AYRES, SENIOR STAFF ATTORNEY, NATURAL RESOURCES DEFENSE COUNCIL

Mr. AYRES. Thank you, Chairman Stafford, and I appreciate the opportunity the committee has given us to be here today to testify on the nomination of William Ruckelshaus to be Administrator of the Environmental Protection Agency.

As a former EPA Administrator, it would ordinarily be expected that Mr. Ruckelshaus would have an easy time of being confirmed. But these are not ordinary times. The past 2 years raise serious questions about whether the Reagan administration shares the overwhelming commitment of Americans to a clean and healthy environment. The drastic reductions in staff and budget at EPA and the wholesale embrace of extreme policies suggest an outright hostility to environmental protection in the Reagan administration.

If this record is to be repaired, the EPA must have the budget and staff it needs to do its job. The new Administrator must reverse the misguided policies of his predecessor and again make protection of the environment the job of EPA.

If trust is to be restored, the new Administrator must be permitted to carry out the Nation's pollution laws, not string them out or tear them out. He must be free of political influence exercised through White House back channels such as the so-called regulatory impact analysis which gives OMB Administrator David Stockman a virtual veto over EPA regulations.

He must be free of either the appearance or the reality of conflict of interest. Given Mr. Ruckelshaus' association in the last few years with an industry regulated by EPA, that is a subject which the committee should examine.

And he must commit himself to sweeping out the long list of regulatory actions that don't protect, sweetheart deals with industry, and extreme legislative proposals that are the legacy of his predecessor.

This committee should inquire deeply into each of these facets of the record of Mr. Ruckelshaus. Mr. Ruckelshaus has often stated his fundamental disagreements with some of the basic premises of the environmental laws that this committee has written. Perhaps he didn't mean what he said, but he is a careful lawyer, and I think, unless he retracts or modifies those statements, they must be taken as reflecting his views.

He has called our antipollution laws extreme and irrational. He wrote Mrs. Burford volunteering his services in the administration's antienvironmental regulatory relief program.

Mr. Ruckelshaus is known as an intelligent and capable administrator and has a reputation for integrity. But he has often articulated a philosophy of environmental protection very different from the laws this committee enacts.

The committee will want to know whether his views are compatible with faithfully carrying out these laws. He has said, for example, that, "It makes no sense for the Clean Air Act to require pollution-control equipment where there is no threat to public health."

Apparently, he places a low priority on other environmental values of clean air, such as higher farm and forest productivity, less damage to buildings, better visibility, protection of national parks and other treasured areas.

If this is true, it would be consistent with his earlier actions while he was Administrator at EPA. At that time, he refused to require States to protect their clean-air resources, and he allowed new coal-fired powerplants to be built using western coal without any sulfur-oxide controls whatever.

Mr. Ruckelshaus also contends that air-quality standards based on protecting public health and welfare are "inherently irrational." He apparently feels that the standards, if carried to their logical extreme, could cause the entire national wealth to be expended protecting the most vulnerable person. But this "reduction to the absurd" kind of argument has a place only on the debating platform. It doesn't help formulate sound, national policy.

The national air-quality standards are a statement of national policy. They stand for the principle that an individual citizen in our society should be ble to breathe air that supports health and not have that right compromised by some bureaucrat or lobbyist for an industry claiming that your good health is not worth the price to his business.

Mr. Ruckelshaus has also espoused the theory that pollution control technology is not justified unless Government first makes a demonstration of exactly what improvement in air or water quality will result. He opposes general technology standards.

But the fact that we cannot demonstrate the impact of pollution does not necessarily mean that it isn't there. We see no reason why the Government should risk its citizens' health because it can't demonstrate what is obvious to everyone. One reason Congress adopts technology requirements, as you have in both air and water laws, is that they are relatively simple and straightforward and easy to enforce. When regulated industries can be counted upon to litigate every rule that is promulgated, those qualities have a great deal to recommend themselves.

Those qualities of simplicity and enforceability and other reasons explain why Congress has favored technology standards as a means to meet air and water pollution requirements. Congress rejected Mr. Ruckelshaus' view over 10 years ago, and it has continued to ever since.

While he opposes technology standards, Mr. Ruckelshaus supports using air and water quality as the touchstone for environmental control programs.

But in practice, he has often urged very weak air and water quality standards. For example, he has repeatedly urged diluting the Federal health standards with economic and energy considerations; he has urged repealing the Federal air quality budgets that limit deterioration of presently clean air; and as Administrator, he argued before this committee and carried out the policy that diluting pollution with devices such as tall stacks was as acceptable a way to meet public health standards as cleaning it up. That position was held illegal by the Federal courts.

Despite the lesson of the past 2 years, Mr. Ruckelshaus also thinks that the EPA Administrator should have more unchecked power. He decries Congress' lack of "trust" in EPA. He wants more "flexibility." He even suggests the unprecedented idea that some EPA regulations should simply be unreviewable. The word "final" is the word he uses.

If you conclude that despite these statements of the past his personal philosophy is compatible with carrying out the present pollution laws, then you should also satisfy yourself that his ability to do the job properly will not be impeded by other elements of the Reagan administration. EPA is presently subject to Executive Order 12291 which requires OMB review and clearance of EPA regulations. This process, in practice, has given the OMB and David Stockman an effective veto power over EPA regulations. Eleven years ago, Bill Ruckelshaus tried and failed to eliminate a less arduous OMB review process.

This time, you should help him. To assure Mr. Ruckelshaus will have a free hand, you should demand that Mr. Stockman provide you a waiver of Executive Order 12291 as to EPA as provided for in section 8(b) of that Executive order. To move the fox out of the hen house will do little good if the fox keeps the key to the farmer's shtgun cabinet. He should give Mr. Ruckelshaus the key, as well.

Finally, before you confirm Mr. Ruckelshaus, you should satisfy yourselves that he is committed to reversing the myriad of antienvironmental and often illegal policies of the Burford era at EPA. The antienvironmental crusade of the administration continues despite her departure.

The most difficult challenge of his administration is bringing the Reagan environmental policies back to the political main stream in the face of continuing pressure from regulated industries. Given the doubts I have expressed here today about his views, I urge that the committee be extraordinarily specific in inquiring into the expected policy changes that he intends to persue.

I have listed 16 pages of needed policy changes in my written statement from pages 16 to 32. Given the breadth and depth of the attack on the environmental regulations at EPA in the last few years, however, this is really only a partial list. Rather than to try to go into that list here, because our time is short, I would like to conclude by saying that President Reagan has charged in the past that Mrs. Burford was chased out of office for doing no more than carrying out his policies. If that is so, it is time he changed his policy because EPA's actions over the past 2 years flout both the requirements of law and the will of the American people.

The measures we have suggested changing are only a part of EPA's responsibilities, but they are critical items on EPA's long regulatory agenda. If Mr. Ruckelshaus attacks this agenda with determination, then he will accomplish a great deal in convincing the public that the tide really has changed at EPA.

Thank you, Mr. Chairman.

Senator **Stafford**. Thank you very much, Mr. Ayres.

In view of the number of members on this panel and the committee atendance this morning, Senator Randolph and I have conferred, and we have agreed to suggest to our colleagues that we limit ourselves to 5 minutes on the first round of questioning, with the understanding that we will have a second round if necessary, keeping in mind that we have four more people to appear in front of this committee individually and not as panelists before we can conclude our meeting which we should do by 12 o'clock to stay within the Senate rules.

The Chair, understanding that Senator Randolph has an urgent meeting elsewhere, is going to recognize him first.

Senator Randolph.

Senator **Randolph**. Mr. Chairman and my colleagues, I am very grateful. I will not take 60 seconds.

Dr. Hair, as I understand it, you are for Mr. Ruckelshaus?

Dr. **Hair**. That is correct.

Senator **Randolph**. Mr. McComb, as I understand it, you are against Mr. Ruckelshaus?

Mr. **McComb**. We are reserving judgment on that.

Senator **Randolph**. Well, I listened very carefully to what you had to say.

Mr. **McComb**. We have some grave concerns.

Senator **Randolph**. I understand, you reserve judgment.

Mr. Butler, would you?

Mr. **Butler**. Yes, we also reserve judgment depending upon answers to this committee's questions tomorrow, but subject to those questions, we are prepared to support his candidacy.

Senator **Randolph**. And Mr. Wolf?

Mr. **Wolf**. We neither endorse nor oppose Mr. Ruckelshaus now. We do believe, however, that he has a great deal to prove. On the one hand, he should be given an opportunity to prove himself, but on the other hand, he bears very close watching.

Senator **Randolph**. Mr. Ayres.

Mr. **Ayres**. Senator Randolph, we feel that the committee should satisfy itself on the four points that I mentioned in my testimony before it moves to confirm him, and so we take no position ourselves until we hear his answers to your questions.

Senator **Randolph**. Listening to you, I would say you were against him.

Mr. **Ayres**. Senator, I felt it was important to let the committee know of the things that he has said and positions he has taken. I think it's important to give him the opportunity to clarify those in the next couple of days.

Senator **Randolph**. Thank you, Mr. Chairman.

Senator **Stafford**. Thank you very much, Senator Randolph. My own questions follow somewhat the same line, so let me ask this question of the panel as a whole. Is it fair to say that none of you has come before us advocating the rejection of the nomination of Mr. Ruckelshaus as Administrator of the Environmental Protection

Agency? Is there anyone on the panel who advocates his rejection as of today?

[No response.]

Senator STAFFORD. I hear no one saying no, so I assume the answer would be there is no one in that position.

Is it accurate, then, for me to summarize your several statements as urging the committee, Congress, and the public, to monitor carefully the actions of EPA under Mr. Ruckelshaus to see that he faithfully executes our environmental laws, assuming he is confirmed, and to sound the alarm if he veers from a course of protecting public health and the environment? Would that characterize your attitude?

Mr. AYRES. Mr. Chairman, I would add to that that I think the committee should seek specific commitments from him as to policies he intends to pursue in order to enable you to do that job better.

Senator STAFFORD. I think that is a fair statement, and I can assure you that the committee intends to pursue that with him.

Is there any dissent from Mr. Ayres' statement or from the question I asked?

[No response.]

Senator STAFFORD. I see no negative heads wagging and no negative statements, so I assume we are in agreement.

Let me follow up with one more question. You have all noted that Mr. Ruckelshaus has been affiliated with a major corporation subject to extensive regulation by EPA. What do you believe is the appropriate course for him to follow if he is confirmed as Administrator in making decisions that affect his former employer? Would any of you care to speak briefly on that?

Mr. BUTLER. I would say, as an attorney, that it seems to me that if the action is to affect Weyerhaeuser alone, some sort of an enforcement action, I think it would be appropriate for him to recuse himself. If, however, it affects Weyerhaeuser as just one of a category of industries affected by a regulation, and it is a broad category, it seems to me that he would not have to disassociate himself or recuse himself from that determination.

Senator STAFFORD. Is there dissent from that statement?

Mr. WOLF. I think we have another concern, as well.

Senator STAFFORD. Mr. Wolf?

Mr. WOLF. That is, the appointments Mr. Ruckelshaus and the White House make to other important positions at EPA; if there are industry folks who also were going to have some similar conflicts, possible conflicts of interest. And what do we do with an agency where all his top personnel simply cannot act because of potential conflicts of interest? That is a concern of mine, of ours.

Senator STAFFORD. Assuming that Mr. Ruckelshaus terminates his connection and all of his financial interests with Weyerhaeuser and any other corporation with which he has been associated and, additionally, recuses himself from deciding questions involving a decision made at Weyerhaeuser while he has been in office there, would you think he had placed sufficient distance between himself and his activities of the last several years?

Mr. WOLF. I would hope that if he places his distance between himself and another party viewpoint, he exercises some distance between himself and the administration's current attitudes about envionmental protection. I think that is the most important issue.

Mr. AYRES. Mr. Chairman, I think that particularly in light of the history of the last couple of years, he would be wise to sweep broadly in avoiding the appearance of conflict of interest as well as taking the course that you suggest.

Senator STAFFORD. Yes. Well, thank you all.

Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman.

Mr. McComb, in your testimony, you point out clearly that Mr. Ruckelshaus publicly stated the views that he espoused in the letter to Vice President Bush. In other words, the disclosure of the letter to Vice President Bush wasn't some new revelation, that is a fact that Mr. Ruckelshaus testified to when he appeared before this committee.

Does everybody on the panel acknowledge that those were no secret views of Mr. Ruckelshaus? Does everybody on the panel acknowledge that he only espoused those views in connection with the Clean Air Act?

Mr. Wolf, as I listened to your testimony, I was intrigued by it and thought that there were matters in it that I didn't know about and was considerably interested in as disclosure after disclosure came out. But then you said, "We are truly in trouble if the Ruckelshaus EPA capitulates to sweetheart Superfund settlements of the kind which occurred at Seymour, Ind."

Now, that was a settlement, as we understand it, that was approved by a Federal judge after 30 days of consideration and having heard the testimony; is that correct?

Mr. WOLF. I'm not familiar with that particular detail, Senator.

Senator CHAFEE. Well, Mr. Wolf, it doesn't help us very much if you come forward with a long list of charges of the errors which Weyerhaeuser is guilty of and they are based on nothing more than the evidence that you appear to submit in connection with accusing the Seymour settlement of being a sweetheart settlement, because we have clearly had testimony before this committee that that settlement was approved by a Federal judge in Indiana, that he had heard evidence, that he took some 30 days to come up with his decision.

Are you aware of that?

Mr. WOLF. Sir, I came to Washington 2 months ago from Indiana, and I am familiar with this controversy and with the citizens who were involved with it.

There has been much written about this controversy; many people believe it was not a fair settlement, particularly the generators who were left out of the settlement agreement.

Senator CHAFEE. What took place?

Mr. WOLF. The settlement can be—I am sure the settlement, when it was written, conformed with all the legal requirements. However, whether the settlement is fair or not is another matter, and in my characterization, I don't think I am alone in calling this a sweetheart deal.

I believe one of the attorneys for the generators who benefited from this settlement had similar kinds of characterizations, although he did not use that language. I think, as you will recall, at Seymour, the large generators were able to settle for far less than the EPA originally estimated.

Senator CHAFEE. Well, Mr. Wolf, I don't know how much farther you can go than to take it before a Federal district court judge.

Now, if you end up with a sweetheart deal, then that judge should be impeached; there is something wrong.

What I am getting at here is that Mr. McComb, himself, warned about negotiated settlements.

Now, the opposite of a negotiated settlement is to try it in court. I personally am deeply concerned about this constant cross against negotiated settlements, because we will never get anywhere in settling these matters and getting on with cleaning up the environment if every alarm bell is going to go off every time there is a negotiated settlement.

Yet if there is a negotiated settlement that is approved by a Federal district court judge, it is then labeled a sweetheart deal. I don't know where we are left to go then.

Mr. WOLF. In that regard, I will agree with you. I don't think anyone by any means wants to impede EPA from making fair and sensible settlement agreements; that often the public is harmed if we have an attitude that we are going to take these fellows fully through the court and to the mat on these matters.

But in this particular instance, much has been written about it, and I think the characterization is apt that the generators who were able to settle got a good deal, and the generators who were not able to settle are protesting that they got a very, very bad deal.

Senator CHAFEE. I think that is a pretty severe indictment of the Federal judge who heard the matter and who approved the settlement. That is the implication from the statement you made.

Thank you, Mr. Chairman.

Senator STAFFORD. Senator Mitchell?

Senator MITCHELL. Thank you, Mr. Chairman.

In Mr. Butler's statement, he dealt at some length with what he called the cost-benefit analysis question, referring to the settlement made by Mr. Ruckleshaus in his letter to Vice President Bush in which he described as "inherently irrational" basing ambient air quality standards upon adverse health and environmental effects and called for the kind of cost-benefit analysis that Mr. Butler alluded to.

I would like to ask each of the other members of the panel, first, whether you agree with Mr. Ruckelshaus' statement that basing ambient air quality standards on health and environmental effects is "inherently irrational" and should be changed, and if you do not agree, why not?

If you can, in summary fashion, what is the argument for the law as it now exists with respect to such standards, and why should it not be changed?

Mr. Ayres.

Mr. AYRES. Senator Mitchell, I try to address that in my statement, but I think it is a very important issue. It is one that bears close scrutiny. The air quality standards are the objectives of the program. They are the assurances by the Government of the quality of air that people are entitled to as citizens of the United States. To suggest that they should be drawn based on cost-benefit analysis is to suggest—and there is really no way around it—that some peoples' health should be set off against the profit of someone else who can install less costly control equipment in order to achieve a weaker standard.

So I think that the Congress was quite correct when it is essentially ignored that kind of suggestion as it considered the Clean Air Act last year. This committee did not consider that kind of change, and I think it was wise not to.

Senator MITCHELL. In fact, the committee considered it and rejected it.

Mr. AYRES. Yes.

Senator MITCHELL. Mr. Wolf?

Mr. WOLF. Yes, Senator Mitchell?

Senator MITCHELL. Did you hear my question? I addressed it to all the members of the panel and asked for an individual response.

Mr. WOLF. I think Dick is more qualified to answer that particular question than myself.

Senator MITCHELL. All right, thank you.

Mr. Butler, you have already commented.

Mr. BUTLER. Well, I was the one who made the original comment. I would address the committee to my statement, where I state that there are areas where cost-benefit analysis, obviously, is valuable.

I said there, for example, that a cost-benefit approach may be valuable in establishing agency regulatory priorities or choosing between competing methods to achieve a health-based standard, but I certainly would agree with Mr. Ayres that when we are dealing with human health, a health-based standard is much more rational than a cost-benefit balancing standard.

A cost-benefit balancing, in many instances, is rife with value judgments. A health-based standard determines scientifically what the human body can and cannot absorb without damage.

When we begin to talk about cost-benefit balancing in this area, it seems to me much more appropriate to do it in terms of what sort of technology are we going to utilize to achieve and maintain the health-based standard rather than using it to set the standard in the first instance.

Senator MITCHELL. As you know, Mr. Butler and the other members of the panel, Mr. Ruckleshaus is an articulate, knowledgeable person, and a superficially persuasive argument can be made for the cost-benefit analysis by carrying the argument to its logical extreme and saying there is some point at which you don't spend billions of dollars to protect one person against a possible adverse effect.

What I was trying to get at was a best argument that can be made in defense of the current health standards in the face of that.

Mr. McComb, I would like to have you and Mr. Hair tell me what, in your opinion, is the best argument on the cost-benefit analysis in opposition to Mr. Ruckleshaus.

Mr. McCOMB. I am not sure I have the best argument.

Senator MITCHELL. Your best argument.

Mr. McCOMB. The question really comes down to when you consider economic factors in this whole matter of pollution control, and we have long been convinced it is both wrong and practically impossible to do that when you are setting these standards and goals.

No matter how you try to do that, you end up making some arbitrary evaluation on human health and human life. I think it is a game that, frankly, none of us want to play.

Sooner or later you have to have an actual program, actual technology, when and where and how and who it impacts. I think that is the place where you ought to consider cost effectiveness.

Senator MITCHELL. If I may refine your argument a little bit, are you suggesting, then, that it is most appropriate, in view of the importance of protecting public health, to utilize that standard exclusively in establishment of the standards but then to consider other economic and social factors in the implementation, perhaps the pace of implementation of those standards?

Mr. McCOMB. That is correct.

Senator STAFFORD. Your 5 minutes are up.

Dr. HAIR. I will be quick, Senator Mitchell.

If, Mr. Ruckelshaus means that it is inherently irrational to set air quality standards to protect all Americans, I must raise the question, "Where do we draw the line?"

Senator MITCHELL. What?

Dr. HAIR. If he considers it irrational, the question becomes, "Where do we draw the line?"

Do we cut out asthmatics, bronchitis sufferers, people with heart and pulmonary diseases?

How do we make the decision in this difficult process?

Should Congress decide? Should EPA decide? Should the States decide?

I think what we have got is a combination of all those. I am a firm believer in cost-benefit analyses. I believe that they are effective when done properly by qualified professionals. I believe that EPA has such qualified professionals. In fact, I have personally talked with those individuals in EPA who are responsible for implementing that part of the Presidential Executive order.

Under the previous administration, they forwarded to Washington cost-benefit ratio analyses that weighed heavily in favor of environmental regulation and were told not to press those analyses.

So I say yes, let's try to subject these regulations to a fair, objective, best available technology analysis, and let's provide for those kinds of programs to protect those in our society who will be significantly and negatively impacted.

We can do that and do both.

Mr. AYRES. Senator Mitchell, could I add one very quick comment to my earlier remark?

I think one of the problems with the notion that health standards should be set based on the cost-benefit analysis is that it misconceives how the balancing should occur. In effect, when you pass the Clean Air Act, you decide, by your decisions on control technologies and so forth, here in this body, amongst elected officials, how much the Nation will spend and how fast the pace will be to achieve public health goals.

What Mr. Ruckelshaus is suggesting is that the EPA Administrator, an unelected bureaucrat, be allowed to make that decision instead of having those decisions made here in Congress.

I think that is not wise policy. I think it is better to have elected officials look at those issues.

Senator MITCHELL. I will return to that.

My time is up, and I will defer to the chairman, but I would like to explore that further, Mr. Ayres.

Senator STAFFORD. Thank you, Senator.

Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman.

I would like to ask Mr. McComb his views on negotiated settlements.

Are you opposed to them?

Mr. McCOMB. I don't think I am intrinsically opposed to negotiated settlements, but, certainly, the entire history, the recent attempts there, indicate that there wasn't anybody really represented by them.

Senator CHAFEE. Let's not look at what took place. We have a new Administrator coming in, who presumably, will be handling negotiated settlements.

Are they wrong? Should everything be litigated?

What is the answer?

Mr. McCOMB. They really do need some scrutiny by somebody that represents, in an unbiased way, the public, and that might be a judge. It might be an EPA Administrator that had the full confidence of the public.

Senator CHAFEE. That is what we are talking about here. We are talking about a new Administrator.

Are we to say to Mr. Ruckelshaus when he comes before us that we will look askance at any negotiated settlements you make??

Mr. McCOMB. I frankly don't want to answer that, Mr. Chafee.

Senator CHAFEE. Pardon?

Mr. McCOMB. I don't have the answer to that question.

Senator CHAFEE. How about you, Mr. Butler?

Mr. BUTLER. I do have a couple of comments on that. I am a member of the Administrative Conference of the United States, and was apointed by this administration—and I voted with the majority there in favor of regulatory negotiation.

I think that in setting out regulations, I think negotiation is very useful providing that the negotiation creates the draft regulations for safety in the public at large, a draft they published for public comment.

Senator CHAFEE. No; I am talking about settlements with polluters.

Mr. BUTLER. I know that. I am trying to draw a distinction between regulatory negotiations and negotiated settlement with polluters. The distinction is the regulatory negotiation goes before the public subsequent to make whatever comment they wish. The problem with negotiated settlements is that—and I have negotiated many settlements myself with EPA—they happen behind closed doors. Interested parties not parties to the particular lawsuit do not participate in what is going on.

The public has very little opporunity before acceptance to comment on the negotiated settlement. The formality of a 30-day period is a sham. If you wish to get the extensive negotiated document from the Justice Department, you can be permitted to do so, but find out what really went into those negotiations and what type of background facts there are is virtually impossible within that period of time.

Most Federal district court judges—and I realize I am speaking before a former Federal district court judge—based on having clerked for one, are only too thankful if the parties come in with a negotiated settlement.

While they will look at it, they perhaps don't look at it with the care that other interested parties might that were not part of those negotiations.

The summary is yes, there ought to be negotiated settlements, but judges before approving them ought to be very certain that the negotiations take place with sufficient representation of all interested parties and not just the industry and EPA.

There are more interested parties than those two. There should be an honest attempt to make sure that the public is able to examine what it is that has been negotiated before a judge places his embraces upon it.

Senator CHAFEE. Mr. Butler, we are not talking about cases where litigation is started and you are having a judicial settlement approved by a judge.

A host of cases come up wherein you get a lesser situation, wherein it is lesser as far as public review; wherein the EPA and the polluter reach a settlement as to what the damages are in this particular instance.

Are you opposed to those? Should they first be required to start the judicial process?

Mr. BUTLER. No; they should not be required to start the judicial process.

Am I opposed to them? Yes; I am opposed to them unless two things happen: First, that there is representation of all interests involved in the negotiation of those settlements, including the public; and, second of all, that there be an adequate period of time in which that complete document is made reasonably available to the public for interested parties that were not participants in the negotiations to have their say prior to its becoming final.

Senator CHAFEE. And you would not consider that EPA represents the public?

Mr. BUTLER. No.

Senator CHAFEE. Who might represent the public?

Mr. BUTLER. It seems to me that this administration under Anne Burford is perhaps the most classic example of the EPA not representing the public interest. It seems to me that you get closer to the public interest if you have an agency which opens up its process. I happen to know that Mr. Ruckelshaus is in favor of this, that is why I am stressing the subject. If he has a strong point, it is that he is very much in favor of open covenants openly arrived at. He has gone out of his way throughout his career of making absolutely sure that the under- or unrepresented interests are heard, if not always heeded, and that is the key.

There is then a patina of legitimacy placed on these decisions so reached, because everybody has had their say, and all interested parties have examined what the document or what the settlement is going to be. Then it goes forward; some may still be unhappy with it, but everybody has had his say.

What happened in the last 2 years was not——

Senator CHAFEE. Let's not talk about the last 2 years. I would point out that in the Clean Water Act, the toxic strategy is based on a settlement between the EPA and the NRDC in which industry, for example, was not a party.

But I have trouble getting from you—if EPA isn't the public, who is the public? Is it the President? In 30 seconds or less if you would, please?

Mr. Butler. I think the people immediately surrounding the dump should be heard, and I think that the elected officials of those people should be heard on the settlement, rather than just the EPA and the industry. It seems to me that the people whose lives may be most immediately at stake are the people who are exposed. To my knowledge, in some of these sttlements, those people don't know what settlement has been negotiated until the final judgment is published in the newspapers. I think that is wrong.

Senator Chafee. OK, fine. Thank you very much.

Senator Stafford. Thank you, Senator Chafee.

Senator Mitchell?

Senator Mitchell. Mr. Ayres, in your testimony you touched on the question of the independence of the EPA, particularly from OMB and, in addition, interference by the White House. That, of course, is one of the questions that several committees of the House and this committee are now looking into with regard to the current EPA.

At Mr. Ruckelshaus' hearing tomorrow, I intend to explore his attitude on that. I would like to ask you a specific question regarding Executive Order 12291 to which you referred in your testimony. That is the Executive order that requires OMB's prior approval of regulations.

You refer to a clause in that Executive order which, and you say, in the quotation, "May exempt any class or category of regulations from any or all requirements of this order," and you than suggest that EPA should be so exempted.

My question to you is informational in nature. Are you aware of any other exemptions of the type you suggest here?

Mr. Ayres. No, I am not, Senator.

Senator Mitchell. Does that mean that you have looked into it and you know there are none, or just that you don't know whether there are any or not?

Mr. Ayres. It means that I don't know whether there are any or not.

Senator Mitchell. Could I then ask staff, Mr. Chairman, if someone would determine, at the earliest possible time, whether or not this exemption provision in Executive Order 12291 has been involved in any other instance so that if we suggest it, there will be some precedent for or against it?

Senator Stafford. Yes; that is a proper request, and we can comply with it.

Senator Mitchell. Thank you, Mr. Chairman.

Mr. Hair, I wanted to ask you one more question: You were the most emphatic of the panelists in support of Mr. Ruckleshaus, and then you identify five specific areas of concern which you said we should raise with him, the first being what you regard as EPA's inadequate budget, the second being the administration's position toward acid rain, the third being the Clean Air and Water Acts; the fourth ocean dumping and the fifth, compliance by Federal facilities.

We know what Mr. Ruckelshaus' attitude is toward the Clean Air Act based upon these letters. I anticipate he will reaffirm his position as Senator Chafee correctly pointed out. This is a publicly held view that he has had for some time. If he comes in here and says that he won't raise the budget, that he reaffirms the administration's position on acid rain legislation, that he continues to take the position he has taken regarding ocean dumping and the same with respect to Federal facilities compliance, would your endorsement still be the same?

Dr. HAIR. If all those conditions are going to apply, it sounds like Weyerhaeuser is going to keep a good senior vice president.

Senator MITCHELL. I am not sure that is true.

I would like to ask you again: If he takes positions that would be contrary to the view you have expressed on all or most of these, would your endorsement still stand?

Dr. HAIR. First, I don't believe he will take positions that are contrary to all those. I think there will be degrees of difference. But if there was expressed by him outright rejection of those kinds of principles, we would have a very difficult time working with him or continuing to support him once he is confirmed. I don't believe that to be the case, Senator.

Senator MITCHELL. Then isn't it the most likely circumstance that he will take no position on some of these pending further study?

Dr. HAIR. I think that is correct.

Senator MITCHELL. So let me revise my question. Say, if he does not take a position consistent with yours on any of these, but, rather, takes a position either contrary or neutral; that is, pending further study, would that change your endorsement in any way?

Dr. HAIR. No; it would not. At this point in time, it's our opinion that the Environmental Protection Agency is in such shape that we need someone of the stature and ability of a William Ruckelshaus, that we need, the American public needs to work with to try to get that agency rehabilitated and back to doing its job. And we believe, with proper help from all sectors, industrial, environmental and otherwise, we can as a people do that. We must do that.

Senator MITCHELL. That is really what I was trying to get at. What you are saying is you are for him, period, and you then devote most of your statement to raising five specific areas of concern. What you are really saying now is notwithstanding these views on those five areas of concern, you are still for him?

Dr. HAIR. That is correct.

Senator MITCHELL. Mr. Wolf.

Mr. WOLF. I think it is important that Mr. Ruckelshaus take some positions. After all, he has got plenty of experience in the environmental area; and I hope he doesn't get away from your scrutiny by saying, "I am going to think about it."

He was, after all, former EPA Administrator for several years. He was an environmental attorney in Washington, D.C. He headed environmental activities at Weyerhaeuser, and I think he should be able to give you and the public some very definite commitments.

Senator MITCHELL. I want to commend Mr. Hair for his forthrightness, and with respect to the rest of you, it is all well and good to say that you have got to wait and see what kind of a job he does in office, but we don't have that luxury. We have to vote on his nomination. I understand your reluctance to take a position in view of the competing qualities here, personal qualities which appear to be very high, positions with which you tend to disagree, but I just want to point out that we can't wait 2 years and then say, "Well, we don't think he has done a very good job, so we are not going to vote for him."

Mr. Ayres. Senator Mitchell, I certainly didn't mean to suggest, at least, that you should. It seems to me that you should be satisfied at the end of your interrogation of him that he, despite the views he has expressed, that he will carry out the laws as they are written. That was one of the major problems with his predecessor, who didn't agree with the laws and decided to carry them out her way.

Senator Mitchell. That is so fundamental, who in this country, who in the world is going to come here and say, "Appoint me to this position, but I am not going to carry out any law that I don't personally believe in?"

Mr. Ayres. In this case, though, I think you have the opportunity to ask much more specific questions because Mr. Ruckelshaus has made statements which are specifically contrary to some of the underlying bases for these laws. I think you should feel free to question him fairly sharply about those.

Senator Mitchell. I know, Mr. Ayres, but you know as well as I do that he is going to say that he is going to enforce the laws whether he agrees with them personally or not. And if he says something to the contrary, the room will empty out quickly as all the press runs out with a big story.

You know that as well as I do. That isn't a substantive issue.

Thank you Mr. Chairman.

Senator Stafford. Thank you, very much, Senator Mitchell.

We thank this panel very much for their help in developing the questions that we will be asking of Mr. Ruckelshaus.

I will say as a final note that it gives me some confidence in him if he answers the questions as we hope he will. He has displayed an extraordinary degree of integrity in the past of refusing to carry out the order of the administration that he served because he thought it was improper and from resigning from that administration instead.

On the basis of his past performance, if he meets the questions properly that we will put to him in the next 2 days, I think he may be at least a far greater improvement over the recent past Administrator.

Thank you, gentlemen.

Senator Mitchell. We are all saying that, Mr. Chairman.

Senator Stafford. In view of the time, the Chair would hope that our next three witnesses might be willing to all come to the witness table together: Dr. Marylyn Stanton, who is from the Spokane County Air Pollution Authority; Dr. Irwin Tucker, president, National Council for Environmental Balance of Louisville, Ky., and Mrs. Susan Kokinda, National Democratic Policy Committee, New York.

She will be representing Mr. Lyndon B. LaRouche.

We have one additional witness, Mr. Michael J. Benett, who is a writer and former OSHA official, according to our information.

Each of these witnesses will be allowed 5 minutes.

If you have full statements—and several of you do—they will be placed in the record.

The Chair notes, in view of the time left to us under Senate rules, we should conclude, and will have to insist on the 5-minute rule.

We are going to arbitrarily go in the order in which you are listed if it is agreeable, and we will let all speak first and then ask questions.

All right, Dr. Stanton, we would be very happy to hear from you.

STATEMENT OF MARILYN STANTON, SPOKANE COUNTY AIR POLLUTION AUTHORITY, SPOKANE, WASH.

Ms. STANTON. Mr. Chairman, Senator Stafford and members of the Senate committee, I have traveled clear across the United States to be here today.

We have a point of view we think is different. I will try to summarize and you can read the graphs later.

Although there have been charges that the EPA on occasion has snuggled up to business, what I am charging today is that there have been EPA employees and scientists who have not proceeded in a scientific manner and that some of the clean air standards; namely, carbon monoxide, were set incorrectly during Mr. Ruckelshaus' reign back in 1970, because unreplicated scientific studies had been used; namely, the one by Beard and Wertheim in 1969. And 2 years later, they found that four different scientific groups could not replicate, (duplicate) the results, and they quitely dumped them.

The EPA has never made this grievous error public. If the carbon monoxide standards had been set with truly scientific replicated data, they should have been set at 18 to 19 parts per million, not the strict 9 parts per million.

We are, therefore, asking you to ask Mr. Ruckelshaus to pledge that in the future, all EPA standards be set on replicated studies. Otherwise, you are likely to be in trouble again as they were in 1970.

Senator STAFFORD. For the sake of all of our audience who may be lay people, when you say "replicated," you mean duplicated by other scientists.

Ms. STANTON. Duplicated by other independent studies.

Senator STAFFORD. Yes, thanks.

Ms. STANTON. So having made that mistake in 1970, it seems to us that there has been a concerted effort by EPA to cover their tracks, and once again, in 1983, the EPA is using unreplicated studies by its two key people.

You can see the EPA key studies on the bottom of the first long page. There are only two, groups, Dr. Anderson's and Dr. Aronow's.

One of our real problems is that you will also see the letter from the Washington Post—the article, I should say—of March the 23d, where the chief experimenter for the EPA, Dr. Aronow, has been barred by the FDA from doing further drug work because he falsified data. Seemingly, the EPA had made no effort, until Spokane County contacted them, to start a real review of Aronow's work in the light of the FDA problem.

What they did was appoint an ad hoc committee that did not have a public meeting; they met on April 20.

We have no idea what this committee came up with. We would ask the Senate to ask EPA what that committee now recommends concerning the Aronow work (now that he has been charged with falsification).

The other doctor, Dr. Anderson, whom we have contacted, agrees with the Spokane group that there should be replication of his work and also Dr. Aronow's work before we would proceed with sanctions.

We note that Spokane, like many other cities, has only a problem with carbon monoxide. We have tried desparately to come into compliance. We simply cannot. We are in a valley where there are all kinds of inversions.

We do not think it is wise to bring down those sanctions until you know there is a health problem.

The third thing we would like Mr. Ruckelshaus to pledge is that if there is truly a health hazard, in other words, when they do replicate these studies, and they find that, yes, it is dangerous at nine parts per million, then enforce it.

Also, in the State of Washington, after you have spent $50 on your polluting car and you find you cannot bring it into compliance, you now have a license to go out and pollute: You have paid your $50.

For instance, they cited the 1971 National Academy of Science Guide because it went with their version, and they did not bother to even cite the 1977 current version which says, for instance, there is need for replication. So you see, Anderson says, "Surely, I should be replicated." But the EPA and Aronow have resisted, since 1980, all our attempts to have them replicate the Aronow work.

For instance, they left out a 1971 study of Aronow which shows that his patients could go up to 8 parts per million or 6 percent carboxy hemoglobin, and they weren't sick. But the latest study shows that at 2 percent, there are difficulties. Aronow does not correlate even with Aronow.

Senator STAFFORD. Dr. Stanton, I hate to do this, but your 5 minutes are up.

Ms. STANTON. That is fine. I think I said what I had to say.

Thank you.

Senator STAFFORD. Good.

The next witness will be Dr. Irwin W. Tucker, president, National Council for Environmental Balance from Louisville, Ky.

STATEMENT OF DR. IRWIN W. TUCKER, PRESIDENT, NATIONAL COUNCIL FOR ENVIRONMENTAL BALANCE

Dr. TUCKER. In consideration of the time, I will have to barge in abruptly and simply say that my experience with the EPA going back to its earliest days does not reveal an agency that deserves the complimentary remarks that have been made about it in the past.

In my prepared testimony, I have listed a number of very fraudulent things that took place relative to scientific findings that should have been done much more carefully, much more meticulously and in a much more open manner with the use of the scientific community and the poor judgments that precipitated legal and administrative challenges.

The overall deficiences of the program are legion. However, I cannot go into those now in view of the time. I will immediately proceed to relate these to the nominee himself, the outstanding example of which is his own—his particular decision on DDT, as well as others.

Now, I have here a letter that was dated April 1979, in response to an invitation to the Weyerhaeuser Co. to attend a conference, a scientific conference on 2,4.5-T.

Scientists throughout the world were invited to participate in this to resolve any conflicting scientific views and to come up with a real consensus view.

Here is Mr. Ruckelshaus' response on behalf of the Weyerhaeuser Co.

> Decisions by the Government involving the use of toxic substances are political with a small "p."

He had said before that there was the basic assumption that it was a scientific one, but he was challenging that, He said, "It was not scientific, it is political."

On the following page, he refers to his decision on that matter:

> The paper then correctly states that my decision, relative to DDT, was contrary to the conclusions of an administrative law judge that the use of DDT should not be cancelled.

And he admits there that he overruled completely the scientific evidence that was presented.

Now, I have a great deal of information on this particular subject, and when he made that decision, he said that DDT was a hazard to man and lower organisms.

Less than 2 years previously, he had said that DDT is not endangering the public health as an amazing, exemplary record of safe use.

Let me read some comments from one of my associates, Dr. Gordon Edwards of San Jose University.

In addressing the Audubon Society in Wisconsin in 1971, he stated as follows: This is Mr. Ruckelshaus:

> As a member of Audubon Society myself, and knowing the impact of this chlorinated hydrocarbon, certain species, I was highly suspicious of the compound, to put it mildly, but was compelled by the facts to tamper my emotions because the best scientific evidence now available does not warrant such a precipitous stop.
>
> However, we in EPA have streamlined our administrative procedures so that we can suspend regulation of DDT and other persistent pesticides at any time during the period of review.

A complete contrast to what we have said and what we have heard should be the direction as reiterated by Congressman Watkins in certain hearings relative to the scientific direction of the EPA.

Further, after the hearings that resulted in conclusions that differs from Mr. Ruckelshaus' own view, Mr. Ruckelshaus sought support within his staffs and turned the transcript of the hearings over to his attorney, Charles Fabrikant.

Two untrained nonscientists of Fabrikant's office then prepared short anti-DDT tracts based on DDT propaganda, rather than the hearing transcript and the data of the experts Fabrikant synthesized a report based upon those tracts, and that report became the Ruckelshaus opinion and his order on DDT.

All subsequent efforts to break that report loose from the EPA have resulted in failure and have been in spite of every effort to call it out on the basis of the Freedom of Information Act. That is a buried document which is possibly nonexistent.

The other comment that came from the study for the National Academy of Science quotes the ex-Congressman, William Sherrill:

> What sense is there in having a hearing and a judge if you are not going to abide by the decision?
>
> If you went through the whole process of adjudicating and hearings, he ought to be in a good position to determine the issue.
>
> The whole process seems to me to be an exercise in futility.
>
> What do you want, anyway?

Dr. Philip Hendlei was more abrupt. He was president of the National Academy of Sciences and said that the DDT decision was "a kind of a national scandal."

Mr. Chairman, I share everyone's concern for the environment, and I will take second place to no one in my concern about these matters.

Senator STAFFORD. Dr. Tucker, your 5 minutes are up.

If you would summarize in about 30 seconds.

Dr. TUCKER. Yes. The fact, of course, is that DDT is one of the safest chemicals ever to be involved, and I appended to do my report a paper by Dr. J. Gordon Edwards, showing that many people are dying now because of the precipitous action the U.S. agency has taken.

I wish I could have been more comprehensive.

Senator STAFFORD. I am going to repeat: I always regret we don't ever have enough time to do justice to the distinguished witnesses who go to great time and trouble to be with us.

I will reserve the right of other committee members, who, due to other committee assignments were unable to be here, to submit questions in writing to the panel members for your early response, if you will, so those who didn't have a chance to be here will have an opportunity to direct questions if they wish.

The next member of the panel is Mrs. Susan Kokinda, and I hope I pronounced your name correctly.

I understand you are the representative of the National Democratic Policy Committee of New York, N.Y.

STATEMENT OF SUSAN KOKINDA, NATIONAL DEMOCRATIC POLICY COMMITTEE

Mrs. KOKINDA. Yes; you did pronounce it correctly.

Thank you. I want to thank you for the opportunity to testify.

The Democratic Policy Committee is a multicandidate political action committee. We have about 30,000 members representing most States of the United States. The NDPC was formed in 1980 to form a policy alternative to the existing democratic policy. The advisory council chairman, as you know, is Mr. Lyndon LaRouche.

Senator MITCHELL. Could I interrupt to ask, I understand, then, there is no relationship or no connection between your organization and the Democratic Party,

Mrs. KOKINDA. Just as that is true for each candidate's past, such as Mr. Kennedy's or Mr. Mondale's, there is no relationship to the DNC.

Senator STAFFORD. I could see you got Senator Mitchell's attention right away.

Senator MITCHELL. I just wanted to make that clear, Mr. Chairman.

Mrs. KOKINDA. Thank you.

I appreciate your making it clear.

NDPC opposes the nomination of William Ruckelshaus to be administrator of the EPA. I think it is necessary to approach this from a slightly broader standpoint than many of the preceding witnesses have and to put in context some of the preceding testimony.

I think what we are dealing with here is essentially two contending world views. One that is essentially neo-Malthusian. That is, it assumes we are stuck with fixed resources. It presumes we are operating from a stagnant technology base, and we have to deal with our pollution problems from within that context.

The ultimate view to which our organization subscribes to is that it is only through the rapid development of new technologies from the very scientifically designed standpoint can we surmount any of the pollution resources problems which face us.

I think it is very safe to say on the basis of this past performance that Mr. Ruckelshaus is a representative of that first orientation, that neo-Malthusian world view, if you will.

I think the first panel needs to be put in context.

If I might be charitable, you might have a family spat going on. To be more honest, I think you have got a "please don't throw me in the briar patch" situation with some of the environmentalists suggesting concerns about Mr. Ruckelshaus' performance.

I think it is critical with Mr. Ruckelshaus to view, for example, the case which the witness preceding me brought up which was his decision to ban DDT.

I think we have got to look at these issues in a much broader, worldwide context, because that decision was taken arbitrarily and capriciously and completely not on the basis of the scientific evidence put forward, and it resulted in the deaths of tens of millions of people in the Third World.

Prior to that decision in 1972, we were well on the way toward irradicating malaria in the Third World, and with the U.S. ban on DDT and the subsequent political fallout from that, malaria has taken a resurgence in areas of the Third World which has caused the deaths of tens of millions of people.

I am talking about 10 million people dying here in the developing area because of malaria on the basis, as the previous witness says, because of a political decision by the administrator of EPA.

There has been much discussion this morning about public health. Well, I suggest there be some discussion of the public health of those people in the Third World who have died unnecessarily because necessary pesticides and other things have not been exported to them, because of the decisions such as those that Mr. Ruckelshaus made.

To put this in the larger context, when I testified on the nomination of Ann Gorsuch-Burford about 2 years ago, I pointed out that the committee and the administration had to be aware of the policy orientation of something called Global 2000, which was promulgated by the Carter administration.

That report stated that we must reduce the world's population by 2 billion by the year 2000.

I stated there were still possibilities of support for that Carter administration-originated proposal in the administration, and that there are support groups on the outside such as the Committee for the Year 2000, who are seeking to implement that policy orientation.

Now, if you ask the most aggresive population controller if you can reduce the world's population by 2 billion people by using traditional or simple birth control methods, and he will tell you, no.

You cannot do it with birth control. So I ask you, how are you going to reduce the world's population by 2 billion people as was advocated by that report, by the Committee for the Year 2000? If it cannot be done by birth control, I would suggest it could be done by pestilence, starvation, and the kinds of policies which resulted from Mr. Ruckelshaus' decision to ban DDT several years ago as head of the EPA.

There have been indications made to us that Mr. Ruckelshaus would like to reimpose the ban on the export of certain so-called hazardous materials imposed at the end of the Carter administration, which was lifted by the Reagan administration when it came in.

I would suggest to Mr. Ruckelshaus that the already very high death toll resulting from the ban on DDT is going to increase if he is allowed to pursue those policies.

So, in conclusion, I would state again, let's talk about public health; let's talk about the real scientific ramifications of the orientation which Mr. Ruckelshaus has taken in previous years.

I would suggest that on that basis, this committee must reject him and the philosophy which he is representing.

Thank you.

Senator **Stafford**. Thank you, very much, Mrs. Kokinda.

The final witness this morning will be Mr. Michael Benett.

Mr. Benett?

STATEMENT OF MICHAEL BENETT

Mr. **Benett**. Senator Stafford, I come to you as a born again Irish Catholic Democrat who used to work for a newspaper; that was the paper of your constituency in Vermont, the Boston Herald.

In that respect, I must say that I reject Mr. Ruckelshaus' appointment as I don't know quite what the word is, but he doesn't like people. He sure as hell doesn't like my kind of people. He sure as hell doesn't like immigrants.

There is a book; in Boston, we learn to read books. Here is a book called Ecological Sanity. It is by George Claus and Karen Bolander. It details the reasons and the rationales by which Mr. Ruckelshaus banned DDT.

In banning DDT, he condemned many people in the Third World to death and starvation and misery.

I have here a book called The Causes of Cancer, published by the Oxford University Press by Richard Doll and Richard Peto.

That same book has been replicated by a study of the Congress of the U.S. Office of Technology Assessment, which states, in the summary:

> Studies over the last two decades yielded a variety of statements that 60 to 90 percent of cancer was associated with the environment and, therefore, is theoretically preventable.

As it was used in those statements and is used in this report, boldface—

> Environment encompasses anything that interacts with humans, including substances eaten, drunk, smoked, natural and medical radiation, work place exposures, drugs, aspects of sexual behavior and substances present in the air, water and soil.

In bold face.

> Unfortunately, statements were sometimes repeated with the environment to mean only air, water and soil pollution.

That was repealed by the only agency of the U.S. Government as a public information office that was called the Office of Public Awareness.

Sir, I reject Mr. Ruckelshaus as a reporter, as a writer, as a scientist, as a humanist, because he is a lawyer.

He is trying to determine that the law shall somehow determine whether people shall live or die. It is the function of the human mind, the human mind, the scientific mind, the mind that can find cures for cancer, for polio, or any of all those other diseases, not all these lawyers, not all these regulators. Not one of them ever, ever, cured anyone from measles, never mind small pox.

And I ask you, sir, to consider that the cause of misery, human misery is far too important to be left to the lawyers and, if you will forgive me, sir, to the politicians.

And I will leave you on that note, and read the books.

They are there, and they are your own books. They are your own books published by your own Office of Technology Assessment.

Senator STAFFORD. Thank you, very much, Mr. Benett.

I think the Chair should note that he is a lawyer——

Mr. BENETT. I am not a lawyer. I wouldn't be one in a hundred years.

Senator STAFFORD. I was about to continue and say, but the chairman's staff shares your opinion of lawyers.

On that note, the Chair has no questions.

Senator Mitchell?

Mr. BENETT. I appreciate your humor, sir.

Senator MITCHELL. I have no questions, Mr. Chairman.

Thank you.

Senator STAFFORD. For the committee, we would like to extend our thanks to all of you for helping us as we approach the difficult questioning of Mr. Ruckelshaus tomorrow.

Let me repeat that the hearing tomorrow morning will be in the large committee room downstairs, room SD–106, at 10 o'clock.

We will see you all there.

The committee stands adjourned.

[Whereupon, at 12:10 p.m., the committee recessed, to reconvene at 10 a.m., Wednesday, May 4, 1983.]

[Statements submitted for the record follow:]

NATIONAL WILDLIFE FEDERATION
1412 Sixteenth Street, N.W., Washington, D.C. 20036 202—797-6800

STATEMENT OF DR. JAY D. HAIR, EXECUTIVE
VICE PRESIDENT OF THE NATIONAL WILDLIFE
FEDERATION, AT HEARING ON THE NOMINATION
OF WILLIAM D. RUCKELSHAUS AS ADMINISTRATOR,
U.S. ENVIRONMENTAL PROTECTION AGENCY, BEFORE
THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
UNITED STATES SENATE, MAY 3, 1983

Mr. Chairman and Members of the Committee:

I am Jay D. Hair, Executive Vice President of the Nation's largest conservation education organization, the National Wildlife Federation. I appear before this Committee on behalf of our more than 4.2 million members and supporters throughout the United States.

I do not wish to dwell on the regrettable sequence of events leading up to this hearing, because I believe we need to look ahead to the future and get on with the business of cleaning up our air, land, and water. However, some comments would seem in order on the "state of the legacy" that Mr. Ruckelshaus has inherited. Whether he is able to restore what some would view as an emasculated and demoralized Environmental Protection Agency to a condition of viability and effectiveness only history will decide. It is clear, however, that the nominee's ability, willingness, and authority within the Administration to rebuild EPA's programs must be one central theme of this confirmation hearing.

Accordingly, my testimony will briefly describe the legacy Mr. Ruckelshaus will confront at EPA. It will then identify some of the key issues and decisions the new Administrator must face

48th ANNUAL MEETIN ernational Hotel, Atlanta, Georgia
ber

and will highlight some of Mr. Ruckelshaus' reactions and responses to similar issues during his tenure as EPA's first Administrator.

We believe for the most part that Bill Ruckelshaus' approaches toward developing and implementing our Nation's environmental protection policies in the early days of EPA's tumultuous history remain valid today as we embark upon what most Americans hope will be the rebirth of an Agency dedicated to protecting the environment.

Because Bill Ruckelshaus is a man of proven competence and integrity, the National Wildlife Federation can and does support his confirmation as EPA Administrator. The difficulty of the tasks the new Administrator will face is exceeded only by their importance. And, although we will not always view these tasks from the same perspective as Mr. Ruckelshaus or agree on the same solutions, I can assure this Committee and Mr. Ruckelshaus that the National Wildlife Federation will do everything it can to assist the nominee, upon his confirmation, in meeting his responsibilities to the Nation to safeguard our environment.

The Legacy and the Challenge

To function effectively, agencies, administrators, and staff need a sense of mission and purpose. One of the fundamental failings of the EPA of the past two years was that its leadership articulated no mission or purpose beyond cutting the Agency's budget and staff and reducing the burden on industry of environmental regulation. In contrast, Bill Ruckelshaus, during his confirmation hearings before this Committee in 1970, appropriately stated that "the mission of this Agency [is] to clean up the environment" and to serve as "an advocate for the environment" both "within the administration [and] without." (See, Hearings, pp. 7,8,43).

Another fundamental failing of the EPA Bill Ruckelshaus will inherit was that many of its key officials saw the business community rather than the American public as the Agency's main constituency. As one member of this Committee aptly observed, the prevailing philosophy was such that top officials were perceived as preferring to take polluters to lunch rather than to court. Indeed, not only was this EPA not inclined to view itself as serving the public, but all too frequently it appeared to regard the public as "the enemy." Public information and participation programs carefully developed and nurtured over a decade were cast aside. Publications inherited from prior administrations were screened for consistency with the positions of the new Administration. Those not passing muster were suppressed and destroyed. Fortunately, Mr. Ruckelshaus understands that EPA was established to serve the public and the public interest and that any injection of politics into EPA's decision-making process "has to be resisted." He has emphasized the importance of "establishing credibility with the public" and of encouraging public participation in agency proceedings. Indeed, he informed his regional office staff in 1972 that they needed "permission from headquarters before deciding not to release information, but not before making a decision to release information." And in sharp contrast to how some in the current Administration continue to view public interest environmental and conservation organizations, Mr. Ruckelshaus told the Senate Judiciary Committee in 1971 that "society owes a debt to groups who make the environment an issue."

The third and perhaps most serious deficiency is in the budget and staff areas. The EPA budget (excluding Superfund and the sewage treatment construction grants program) as proposed for FY 84 is a third-of-a-billion dollars lower than in FY 81--a 48% reduction (when corrected for inflation). This budget reduction is paralleled in the area of personnel. In January 1981, there were 14,075 full-time equivalency positions at EPA. The FY 84 OMB passback provides for only 9340 positions--a total loss of 4,735 employees, about one-third of the initial number in FY 81. A recent EPA "workload analysis" indicates that the EPA regional offices believe they need about 1040 more employees or work years than proposed to be funded for FY 84, including a shortfall of about 200 employees in the hazardous waste management program alone. Since regional office staff, on which these estimates are based, constitute only a fraction of EPA's overall workforce the shortfall between needed and requested positions agency-wide is likely to be much larger than indicated by this analysis.

Budget reductions are bad enough. But cutting back on trained staff professionals, acquired and nurtured over a decade, destroys the Agency's institutional memory and reservoir of talent into the indefinite future. And the simultaneous termination of non-permanent assignments to EPA under the Intergovernmental Personnel Act (IPA) of specialists from state governments and universities, together with slashing of the budget for extramural (outside) research and development carried out in universities (down 67% without correcting for inflation between FY 81 and the OMB passback for FY 84), will have drastic consequences for the training of environmental scientists for the future throughout the United States.

Any hope that essential activities no longer pursued by EPA will be assumed by states and localities picking up the slack can be dismissed as improbable at best. EPA funding of grants to the states has fallen almost as sharply as EPA's overall budget--the FY 84 budget proposal would cut such funding to 44% of FY 1981 levels. In this case, the promised "new federalism" takes the form of more responsibilities and fewer resources.

A final comment on the budget. One of the most disturbing trends in the EPA budget under former Administrator Gorsuch is the particularly severe cuts experienced in research and development activities (and especially long-term R&D). For FY 84, the OMB passback recommendation for EPA's R&D program would provide $175 million--a decline of 38% from FY 81 levels. This includes (in real terms) a 21% decrease in hazardous waste R & D funding, a 31% decrease in toxic substances R&D funding, a nearly 70% cutback in water quality R&D funding (compared to FY 82 obligations), and a 35% reduction in funding for air quality R&D. In some cases, funding levels reflect modest increases in scientific assessment R&D, while imposing more than compensating reductions in long-term research. This compromises our ability to gather the data needed for future development of health and environmental standards. This is indeed ironic for an Administration that promised to improve the scientific underpinnings of environmental regulations.

The new EPA Administrator will have to address thorny budget and personnel problems. Throwing money at the Agency will not solve its problems. But selective resource increases are essential. We consider the following to be among the top priority needs in this regard:

--above other resource needs, restore critical manpower cuts to preserve the Agency's basic "brain trust" of professionalism;

--provide adequate support to EPA's regional offices to allow at least the highest priority needs in each major program area to be met in a reasonable amount of time;

--maintain a credible enforcement capability and return lawyers and scientists to a unified Enforcement Division (while tighter linkage between enforcement personnel and program officials is desirable, the current separation between enforcement lawyers and the Agency's technical experts is intolerable; also, the enforcement program should be re-centralized because the political pressures to which Regional Administrators are subject hamper the initiation of aggressive enforcement actions at the regional level);

--maintain a strong Great Lakes and Chesapeake Bay contaminants research capability.

Critical Environmental Protection Issues

Nearly all of EPA's major enabling statutes must be reauthorized during the Ninety-Eighth Congress, including the Clean Air Act and the Clean Water Act. The ultimate test of Mr. Ruckelshaus' performance as EPA's new Administrator will be not only how effectively the Agency under his leadership implements existing legal mandates and authorities, but also the Agency's (and the Administration's) willingness to "stay the course" so ably charted by Congress in enacting the landmark environmental protection laws of the last decade.

In the sections that follow, I have laid out some of the environmental protection issues of principal concern to the National Wildlife Federation and the Nation. Where Mr. Ruckelshaus has, in the past, expressed a point of view on these issues, we have sought to identify that perspective and to discuss it in light of present needs and realities.

Acid Rain

In theory, "pure" rain is mildly acidic with a pH of 5.6 to 5.7. Atmospheric carbon dioxide forms carbonic acid as it achieves an equilibrium with precipitation. This mild acid is easily assimilated by the environment and is beneficial in effect; it dissolves and releases nutrients essential to plant and animal life.

Over the past several decades, the burning of fossil fuels by man has significantly increased the acidity of rainfall through emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_x) to the atmosphere. High in the atmosphere, these chemical agents are transformed into sulfuric and nitric acids, which then fall to earth as acid rain, snow, fog, and dew, or in a dry particulate form of equal acidifying potential. In excessive amounts, this acidity may cause extensive damage to aquatic life, lakes, forests, crops, building materials, and, potentially, human health.

In the eastern United States, man-made SO_2 emissions account for 90 percent of the total atmospheric sulfur input. Twenty to

25 million tons of SO_2 are emitted by man-made sources each year. About 70% of this total originates from fossil fuel-fired power plants; industrial boilers and commercial and residential furnaces emit most of the rest. Eastern NO_x emissions total about 16-million tons each year and are on the upswing. Automobiles contribute 40% of this pollutant, power plants contribute 30%, and industrial boilers contribute most of the remainder.

In the East, SO_2 is responsible for 65% of the excess acidity in rainfall, and NO_x is responsible for most of the remaining 35%. Because power plants release most of the East's sulfur dioxide emissions, and because these facilities often have tall stacks (which facilitate the long-range transport and conversion of SO_2 into sulfuric acid), power plants have been the target of most proposed acid rain control measures.

Acid rain threatens a growing number of our lakes and streams. A recent analysis, conducted for the Office of Technology Assessment, found that 55% of the lakes and more than half the first- and second-order streams in the 14 acid-sensitive regions in the eastern half of the country are "at risk" due to acid rain. Of the 60,000-plus stream and 7,400 lakes at risk in this region, nearly 23,000 miles of streams and 3,000 lakes are already acid-altered. A 1981 National Academy of Sciences report indicates that, at current emission rates, the number of acidified streams in the eastern U.S. will "more than double" by 1990.

A National Wildlife Federation analysis released in the Fall of 1981, which considered each state's rainfall acidity, geology, soils, and water chemistry, found that 15 of the 26 states east of the Mississippi River, including North and South Carolina, are "extremely vulnerable" to the harmful effects of acid rain. Another ten states are "moderately vulnerable," and one--Florida (viewed overall)--is only "slightly vulnerable" (although parts of the state are highly vulnerable).

A worldwide consensus is emerging on the need to adopt immediate controls on acid deposition. The Organization for Economic Cooperation and Development (OECD), the U.S. National Academy of Sciences, the Economic Commission for Europe (ECE), the European Economic Community, and the U.S. National Commission on Air Quality, have all officially recommended immediate adoption of large-scale programs to reduce SO_2 emissions. Yet the United States, alone among the major industrialized nations, not only has no reduction program; but continues to pursue policies that promote increased SO_2 emissions.

The 1982 Stockholm Conference on Acidification of the Environment reached the following conclusions, in which the U.S. delegation joined:

> --"in recent decades acid deposition has increased significantly, due primarily to increases in emissions of SO_x (sulfur oxides) and NO_x (nitrogen oxides) through the combustion of fossil fuels"
>
> --"the acidification problem is serious and, even if deposition remains stable, deterioration of soil and water will continue and may increase unless additional control measures are implemented and existing control policies are strengthened"
>
> --"further concrete action is urgently needed...to reduce air pollution, including long-range transboundary air pollution" with "establishment and implementation of concerted programmes for the reduction of sulfur emissions [being] a matter of urgency."

The 1979 ECE Convention on Long-Range Transboundary Air Pollution, to which both the U.S. and Canada are parties, commits the U.S. (along with other parties) to:

> --"...endeavour to limit and, as far as possible, gradually reduce and prevent air pollution [defined as the introduction into the air of substances or energy "resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property and impair or interfere with amenities and other legitimate uses of the environment..."] including long-range transboundary air pollution." (Art. 2).
>
> --"...develop without undue delay policies and strategies which shall serve as a means of combating the discharge of air pollutants, taking into account efforts already made at national and international levels." (Art. 3).
>
> --"...develop the best policies and strategies including air quality management systems and, as part of them, control measures compatible with balanced development, in particular by using the best available technology which is economically feasible and low- and non-waste technology." (Art. 6).

In 1980, the U. S. Government signed (and this Administration has recently reaffirmed) a Memorandum of Intent with Canada which committed the parties to "develop and implement policies, practices and technologies to combat [the] impact [of acid rain]," including taking interim action under existing law to combat acid rain, vigorously enforcing existing law, and seeking new legislative authorities if necessary.

Final Work Group reports under the MOI were issued in February 1983. Although the U.S. and Canadian contingents filed separate reports on the aquatic effects of acid rain, the U.S. group agreed that:

> --"acidic deposition has caused long- and short-term acidification of some low alkalinity surface waters in Canada and the U.S."

> --"reductions from present levels of total sulphur deposition would reduce further chemical and biological alterations...and would lead to eventual recovery of those waters that have been altered by deposition."

President Reagan has repeatedly reassured Canadian Prime Minister Trudeau, regarding acid rain, that "we will not export pollution." And Presidential Assistant Ken Duberstein has noted recently (in a letter to Representative Norman D'Amours of New Hampshire) that "the President shares your concern about the potential damage to aquatic and terrestrial systems that may be associated with acid rain."

Yet this Administration remains adamantly opposed to control legislation. Indeed, according to a recent Environmental Law Institute study (supported by the German Marshall Fund), the United States "not only opposes new control programs, but has adopted new policies over the past two years promoting increased SO_2 emissions" and the U.S. "continues to formulate energy and environmental policies with no explicit recognition or consideration of transboundary acidification impacts."

In addition to the growing international imperative to control acid rain, a determination by former EPA Administrator Costle on January 13, 1981, that (1) a duly constituted international body has found that acid deposition derived in part from emission sources in the U.S. results in "significant harm" in Canada (as well as the U.S.), and that (2) Canadian law, as amended in December 1980, affords "essentially the same rights" to the U.S. under Canadian law as our Clean Air Act gives to Canada under U.S. law, triggered the requirement under Section 115 of the Clean Air Act that the EPA Administrator must call upon states contributing to acid rain damage in Canada to revise their state implementation plans to prevent or eliminate endangerment stemming from air pollutant releases under their jurisdiction.

This Administration, unfortunately, has taken no action to implement and enforce the legal mandate of Section 115 of the Clean Air Act.

Mounting scientific evidence from around the world supports the need to reduce acid loadings (i.e., deposition) in even moderately sensitive areas by at least 50 percent. This would necessitate, as a minimum, cutbacks in the emissions of acid rain precursors of a comparable magnitude.

We hope Mr. Ruckelshaus, as EPA Administrator, will come to quickly recognize the reality and severity of the acid rain threat and that a posture of more-research, no-action in addressing this threat is no longer tenable. Of course, our preference would be that the Administration come around to support acid rain control legislation of the sort introduced by Chairman Stafford or Senator Mitchell. However, if Mr. Ruckelshaus can come up with a better way to reduce the sulfur and nitrogen oxide emissions that produce acid rain, such an alternative would certainly warrant serious consideration.

Next to getting the Agency's budgetary and operational "house" back in order, we regard a critical reappraisal of the Administration's position on acid rain control to be a matter of utmost priority for the new Administrator.

Although acid rain was not recognized as a problem during Mr. Ruckelshaus' tenure as EPA's first Administrator, sulfur dioxide was singled out for special attention in President Nixon's

Environmental Message of February 8, 1971. In this message, the President pointed out that sulfur oxides are among the most damaging air pollutants, which cost society billions of dollars annually in damage to human health, materials, vegetation, and property. The President indicated that a charge on emissions of sulfur into the atmosphere would be a major step in applying the principle that the costs of pollution should be included in the price of the product. On February 8, 1972, following inputs from EPA and other agencies, the President submitted the Pure Air Tax Act of 1972 to the Congress. The proposal called for imposition of a tax directly on the sulfur emissions of large sources, with smaller emitters paying the tax based on the sulfur content of their fuel. The proposal was described as intended to stimulate "firms to develop and install control technology and to use clean fuels as quickly as possible to minimize their tax liability."

Somewhat similar proposals have been made more recently. For example, Senator Danforth in the last Congress introduced S. 2594, which would impose a 3 mil per kilowatt hour fee on all electric utilities in a 22-state region. And just last month, Senator Glenn announced his intention to introduce similar legislation encompassing electricity sales in the 31-state region making up the eastern half of the country. (*See*, April 14, 1983 *Congressional Record*, pp. S. 4667-73). Both proposals would earmark the proceeds of the fee to fund the capital costs of sulfur dioxide and nitrogen oxide control technologies (the Danforth bill is limited to sulfur dioxide abatement; the Glenn proposal would address both SO_2 and NO_x).

We hope Mr. Ruckelshaus and the Administration will give serious consideration to meaningful solutions to the acid rain problem, including the potential for application of marketplace incentives of this kind.

Mr. Ruckelshaus is also on record as acknowledging that burning of low sulfur fuels and the application of wet scrubbers "can result in a considerable improvement in air quality in many areas, particularly in the Midwest where sulfur oxides exist, and really are a problem." We agree. We hope Mr. Ruckelshaus will follow through with positive steps to abate acid rain-forming sulfur dioxide emissions.

Clean Water

Among the myriad issues confronting Congress and the Administration in connection with reauthorization of the Clean Water Act are two which especially warrant Mr. Ruckelshaus' early consideration: nonpoint source pollution and waivers from best available technology requirements. (A third Clean Water Act issue, the Section 404 wetlands permit program, is addressed separately below.)

Existing provisions of the Clean Water Act have not adequately addressed runoff from farms, urban streets, construction sites and other nonpoint sources. Half of all pollution now entering the nation's waterways is contributed by nonpoint sources. Implementation of nonpoint source pollution control measures is essential if the nation is to continue making progress cleaning up our waterways.

In testimony, Mr. Ruckelshaus stated that the technology for controlling non-point source pollution "is now known and there are practices that are now known on agricultural lands that can greatly reduce the problem of sedimentation and fertilizer and pesticide runoff that causes problems in many of our waterways," and that "we are not really going to achieve pure water, any way you wish to define it, by 1981 or 1985 or any time if we don't approach this problem." (Clean Water Act Legislative History, p. 1224).

We very much agree. What was true 11 years ago is even more true today. I urge the Committee to call upon Mr. Ruckelshaus to reaffirm his previous support for non-point source pollution controls, and specifically for amendment to the Clean Water Act which would:

--Ensure that all state and local governments address their most serious nonpoint pollution problems and have access to the tools they need to address these problems.

--Ensure that cleanup efforts by one state or locality are not thwarted by poor conservation practices upstream.

--Promote better coordination among the numerous federal and state and local entities dealing with nonpoint pollution.

--Require recipients of various types of federal financial assistance to use "best management practices" to control runoff and other forms of nonpoint pollution.

The second key Clean Water Act issue relates to the "best available technology" (BAT) requirement applicable to dischargers of toxic water pollutants. Some industry interests, in addition to seeking extension of the deadlines for achieving BAT, are seeking an amendment to the Act which would allow BAT requirements to be waived in individual cases--presumably based on a showing that a lesser level of treatment would not violate applicable water quality standards. The current version of the Administration bill does not contain such a waiver provision.

We urge the Committee to solicit Mr. Ruckelshaus' views on BAT waivers. We believe he should maintain the current Administration position in opposition to such waivers.

A BAT waiver provision in the Clean Water Act would be a retreat to the pre-1977 approach of trying to set standards for each pollutant based on its effect on the aquatic environment. Water-quality based standards were a failure because they implied that dilution was a solution to pollution and because of the difficulties inherent in relating concentrations of a pollutant in a discharge to acceptable levels in the ambient water.

Scientists and engineers have yet to devise and implement accurate and defensible ambient-based controls on toxics. Moreover, a waiver provision would result in tremendous administrative burdens on permit-issuing agencies and produce long delays in completion of the permitting process.

EPA described in 1981 the problems associated with a water-quality based approach to toxics regulation:

--"There are no low-cost practical screening techniques to scan large numbers of samples for the presence or absence of toxic pollutants in toxic amounts."

--"Existing reference methods for toxic metals are not sufficiently sensitive."

--"[There is an] inability to measure effluent discharge flow at the necessary level of precision to calculate receiving water impacts [and, therefore, waste treatment requirements to protect water quality]."

--"Existing models are inadequate for making wasteload allocations of the priority toxic pollutants."

--"There are essentially no data available for assigning values to proposed incremental improvements in water quality, as would be essential in determining the highest level of water quality worthy of pursuit in a given stream stretch."

Recent workload analyses by EPA's regional offices indicate that sound water quality assessments and adequate incorporation of biological data would require substantially greater resources.

EPA has estimated that, to process permits with BAT waivers, would require permit writers to invest up to 8 additional work-months for an uncontested proceeding and over 40 additional work-months if there are administrative and judicial hearings. At a time when staff and monetary resources are at a premium, this added burden of processing waiver requests would be enormous, and alone would weigh heavily against establishing a new BAT waiver mechanism.

Section 404 (Wetlands Permit Program)

The authority provided in Section 404 of the Clean Water Act represents the principal tool at the Federal level for safeguarding ecologically sensitive and valuable wetlands from destruction as the result of uncontrolled dredging and filling activities. Unfortunately, the Administration is leading a combined legislative and administrative effort to reduce the degree of protection afforded wetlands under the 404 program.

On the legislative side, Assistant Secretary of the Army for Civil Works, William R. Gianelli, is seeking support from the Administration, Congress, and industry groups for legislation that he has drafted which would significantly weaken Section 404 of the Clean Water Act. That legislation would:

--Alter the status of the Section 404(b)(1) guidelines from binding regulations to mere guidance, which would allow the U.S. Corps of Engineers to override the substance of the guidelines.

--Provide Army officials with the authority to exempt federal and private activities from state and local requirements if the "undertaking is necessary to protect a vital national interest" such as the maintenance of navigation or flood control.

--Eliminate all the current specific requirements for state assumption of the Section 404 program and instead require only that the state program "reasonably achieve the goals" of the Clean Water Act.

--Create a general permit of nationwide applicability to all non-navigable waters and wetlands, which would drastically reduce the jurisdictional scope of the 404 program.

--Transfer EPA's exclusive authority to determine the jurisdictional scope of the 404 program to the Army.

--Eliminate the requirement of Section 404(f)(2) that normal farming, silviculture, and ranching activities that convert wetlands are subject to Section 404.

At the same time, at the administrative level, efforts are being made to significantly weaken the 404(b) guidelines which embody the environmental criteria which the Corps of Engineers must apply before granting a 404 permit.

The current Section 404(b)(1) guidelines of the Clean Water Act were issued on December 24, 1980. On May 7, 1982, the Vice President announced his administrative reforms for 404 directing that the guidelines be shortened, simplified, and made consistent with other described reforms, including clarification of the jurisdictional scope of the 404 program.

In response, EPA has prepared a revised version of the guidelines that were circulated for "red-border" review. The proposed guidelines would:

--Narrow the definition of wetlands to exclude, among others, those bottomland hardwoods outside the two-year flood plain and moist tundra in Alaska.

--Eliminate the requirement that a permit be denied if there is a practicable alternative to destroying wetlands.

--Categorize all wetlands as either "functional waters" or "functionally limited waters." Discharges into wetlands falling within the latter category would be subject to little environmental analysis, would not be subject to an upland alternative analysis, and would no longer be presumed to be unacceptable.

--Define "practicable" (as regards alternatives) almost exclusively in terms of cost.

--Relax the standards applicable to general permits.

--Eliminate the presumption against discharges into special aquatic sites.

We urge Mr. Ruckelshaus, as an advocate for environmental protection both inside and outside the Administration, to oppose the Gianelli amendments and any other amendments that would weaken Section 404.

Further, we urge Mr. Ruckelshaus to retain the current 404(b) guidelines and to reject the draft revisions as inconsistent with EPA's mission and the goals and objectives of the Clean Water Act. The current guidelines have been on the books for only 2½ years. They should be given a chance to work, at least until someone has demonstrated that change is necessary. Despite the rhetoric about "overregulation," no convincing case has been made as yet.

In 1971 testimony, then-Administrator Ruckelshaus "strongly opposed" giving the Corps authority to override EPA's environmental determinations, stating that "all permits for discharges into navigable waters should either be issued by EPA or subject to EPA review and concurrence with respect to environmental considerations." Unfortunately, Congress chose not to follow that advice and did give the Corps a limited override authority based on navigation needs. We hope Mr. Ruckelshaus will continue to resist any effort to further diminish EPA's environmental responsibilities and prerogatives under Section 404.

Great Lakes Contamination

The Great Lakes are one of our greatest natural and economic resources, containing over 90% of the fresh surface water in the contiguous United States. As recent media accounts of dioxin contamination in Michigan illustrate, this resource is threatened by toxic water pollutants. Also, EPA's commitment to protecting this resource and to fulfilling our treaty obligations with Canada pursuant to the 1978 Great Lakes Water Quality Agreement have been called into question.

Although dioxin (TCDD) contamination of fish in the Tittabawassee River and in Lake Huron has only recently received extensive media attention, the EPA and the Michigan Department of Natural Resources (DNR) have been aware of the problem since at least 1978. More recent studies have revealed levels of TCDD contamination in the Tittabawassee River as high as 695 parts per trillion in fish -- the FDA advises against consuming fish over 50 ppt TCDD.

In late 1982, EPA excluded TCDD from the final list of chemicals for which chemical manufacturers and processors would have to turn over unpublished health and safety studies. The proposed regulation under TSCA §8(d) included TCDD on this list; inexplicably, it was absent from the list in the final regulation.

In the proposed "best available technology" (BAT) effluent limitations for the pesticide and organic chemical manufacturing industrial categories, EPA has explicitly excluded TCDD from regulation, despite its acknowledgment that TCDD is predictably present in the wastewater of such operations.

Similarly, EPA has failed to issue the Water Quality Criteria Document for TCDD which would establish recommended "safe" concentrations of TCDD in the aquatic environment, despite the fact that TCDD is one of the "priority pollutants" for which such documents are required.

Based upon the foregoing, we urge Mr. Ruckelshaus to take aggressive and expeditious steps to deal effectively with the problem of dioxin--not only in Michigan and in the Great Lakes region, but on a nationwide basis. Specifically:

--We recommend that EPA immediately issue the Water Quality Criteria Document for TCDD. The Document is in draft form and has been delayed because of its conclusions concerning the need for extremely strict criteria. This Document would provide some guidance to Michigan in its efforts to control continued discharges of TCDD.

--We recommend that EPA accelerate supplementary studies of the wastewater of pesticide and organic chemical manufacturers to support BAT effluent limitations to be included in NPDES permits for these industries.

--We recommend that EPA immediately proceed to prohibit continued discharges of TCDD under §307(a)(2) of the Clean Water Act.

--We recommend that EPA give the highest priority to supporting the Michigan DNR's effort to draft a toxics-limiting NPDES permit for the Dow Chemical Company's Midland facility. This permit should contain quantitative limits on all "priority pollutants" or suspected carcinogens, teratogens, or mutagens known to be present in the discharge. In addition, it should contain detailed biota uptake monitoring conditions.

The problems surrounding dioxin are only representative of a much wider array of toxic chemicals issues of concern to the Great Lakes region. In light of the pervasive contamination problems affecting Great Lakes resources, it seems foolhardy in the extreme for EPA to reduce its capacity to evaluate and respond to such problems. Nevertheless, EPA proposes to phase out its funding for its Large Lakes (Grosse Ille) Research Laboratory and for its Great Lakes National Program Office. Accordingly:

--We recommend that EPA seek adequate funding for research efforts into the extent and significance of toxic contamination of the Great Lakes. While continuation of funding for EPA's Large Lakes Research Station and the Great Lakes National Program Office is a beginning in this regard, long-term scientific research requires certain funding over a multi-year period. We urge EPA to propose coordinated, long-term research into the problem of toxic contamination of the Great Lakes.

Ocean Dumping

The past two years have marked a critical shift in the policy of the Federal Government with respect to the use of the oceans for waste disposal. Prior to 1981, EPA's position had been that the ocean-dumping of harmful waste materials should be phased out. EPA's emerging policy, however, is to treat oceans equally with land-based disposal alternatives; that is, to compare the costs and impacts of ocean disposal with those of land-based disposal alternatives when reviewing ocean dumping permit applications.

We are concerned that this "equal balancing" policy could well result in a massive increase in the dumping of environmentally harmful wastes in the ocean. Our concern is based on the following observations:

--Ocean dumping of contaminated wastes by coastal communities is often by far the cheapest disposal alternative.

--Ocean dumping will invariably be the disposal alternative of least political resistance. This is especially the case today in light of the greatly heightened public awareness and fear of the effects of disposing of hazardous wastes on land.

--The environmental effects of ocean disposal are often more speculative and difficult to document than the effects of land-based disposal. Consequently, when disposal alternatives are compared, the impacts of ocean disposal are often underestimated.

--The amounts of various types of wastes generated in coastal communities is likely to increase substantially over the next decade. These wastes include sewage sludge, contaminated dredged materials, coal ash, radioactive wastes, and other forms of industrial waste.

I urge Mr. Ruckelshaus to give careful consideration to each of the following recommendations:

1. EPA should strictly enforce the Ocean Dumping Act's prohibition against the dumping of harmful sewage sludge. The Ocean Dumping Act prohibits the dumping of sludges that "unreasonably degrade" the ocean. Although EPA found that sludge dumped by New York and New Jersey (in the New York Bight, 12 miles off shore) "unreasonably degraded" the ocean, the dumping has been allowed to continue under a court decision (the "Sofaer Decision") that EPA elected not to appeal. We believe this EPA policy reversal with regard to sludge dumping (which we are currently challenging in court) is a dangerous and unlawful relaxation of existing statutory requirements. EPA had previously determined--and we agree--that safe, land-based alternatives to the dumping of contaminated sludges were now available. We urge Mr. Ruckelshaus to seriously consider this policy change, which could open the door to major increases in the ocean dumping of both contaminated sewage sludge and industrial wastes.

Mr. Ruckelshaus is on record as supporting the expedited phase out of sewage sludge ocean dumping by municipalities like New York City. In 1971, testifying before House and Senate Committees, he made the following statements:

> --The dumping of... materials, such as sewage sludge... would be discontinued as soon as possible, and no new sources of such dumping would be allowed." (House Merchant Marine and Fisheries Committee).

> --In the case of sludge dumping by a city like New York, a reasonable time would have to be afforded to phase out the practice, "because the present practice is unacceptable environmentally," but "we would make every effort to insure that as quickly as possible the City of New York found an alternative method of disposal... that was environmentally sound and that they would not be put to some tremendous expense immediately...." (Senate Commerce Committee).

2. EPA's ocean dumping regulations should incorporate a presumption against the dumping of other environmentally harmful materials. EPA's ocean dumping regulations, currently being revised, should incorporate a strong presumption *against* the ocean dumping of non-sludge wastes that have a significant adverse impact on the marine environment. The regulations should provide that the applicant would have the burden of overcoming this presumption by a clear showing that alternatives to the dumping (including reduction of the harmful contaminants in the waste) are significantly more costly or environmentally damaging than the dumping itself.

Mr. Ruckelshaus' strongly held view in 1971 was that the Ocean Dumping Law should be established and applied to terminate all damaging ocean dumping and to force industries and communities away from preferential use of the ocean as a "least cost, convenient" disposal option:

> --In administering the [Ocean Dumping] act, EPA would be guided by the ultimate objective of terminating all ocean dumping which is damaging to the marine environment." (House Merchant Marine & Fisheries Committee).

> --We would adopt a precautionary, preventive approach aimed at terminating all dumping not clearly demonstrated to be safe." (Id.).
>
> --The purpose of the proposed Ocean Dumping law is to ensure that "the oceans would no longer be a least cost convenient sink for many wastes" and to "force industries and municipalities to construct new and environmentally desirable methods of disposing of wastes on land." (Senate Public Works Committee).

3. In the context of pending proceedings to relocate the ocean dumping of sewage sludge in the New York Bight from the present 12-Mile Site to the 106-Mile Site (now used solely for industrial wastes), EPA should assess on the dumpers a "refundable user fee" (based on the added cost of moving out to the 106-Site) to be applied to the costs of developing and implementing appropriate land-based alternatives. The dumping should be allowed to continue, on an interim basis only, at the 12-Mile Site.

Although Mr. Ruckelshaus was not called upon to address this precise issue during his earlier tenure as Administrator, he did articulate relevant views in 1971 when asked whether materials which are dumped in the ocean should be preferentially dumped at sites beyond the edge of the continental shelf (the 106-Mile Site is in deep water at the edge of the shelf):

> --Rather than investing substantial amounts of money in new equipment to barge a further distance from shore, those communities that presently dump in near-shore ocean waters should be allowed to "continue near shore dumping on an interim basis and to invest their money instead in developing a capability for land-based disposal." (House Merchant Marine and Fisheries Committee).

4. EPA should strictly enforce the London Dumping Convention. The U.S. is one of 52 nations that have ratified this important

international treaty. We are concerned that EPA's reluctance to apply the terms of the Convention to the ocean dumping of sludge by New York and New Jersey municipalities is setting a dangerous international precedent. The U.S. should not relinquish its world leadership in pollution abatement.

5. EPA should accelerate ocean dumpsite designations. Pursuant to the Ocean Dumping Act and a court settlement, EPA is required to study existing ocean dumpsites to determine whether they should be formally designated as suitable for the disposal of specific wastes. In the meantime, over 100 individual dumpsites can continue to be used under an "interim" designation (based almost exclusively on historical usage). This EPA site designation process is a critically important means of assuring that wastes will not be dumped in environmentally sensitive areas such as productive shellfish beds. Because EPA has not devoted adequate resources to this task, it is far behind the site designation schedule established in the court settlement.

6. At-sea-incineration should be carefully managed and monitored. We believe the incineration of hazardous wastes at sea aboard specially-equipped incineration vessels provides an environmentally sound disposal technique provided it is adequately managed and monitored. Unfortunately, recent efforts in this regard, specifically research burns in the Gulf of Mexico conducted pursuant to EPA permits, raised a number of questions about the adequacy of the monitoring and control of those burns. EPA must assure quality control of at-sea-incineration projects if it hopes to promote public acceptance of this disposal process.

Federal Facility Pollution Control Compliance

Department of Defense installations and other federal facilities are among the country's largest generators of hazardous wastes and other pollutants. For example, for one military service, the Navy, it has been estimated that 13 priority toxic pollutants are discharged (into water) at the rate of 3 million pounds (dry weight) per year and that "Navy ships and shore activities in the United States generate 19 million gallons of liquid hazardous waste and 35 million pounds of hazardous waste solids every year." Indeed, "virtually every [Navy] facility that operates industrial processes or health-related services" generates these wastes.

In recognition of this fact, Congress specified in Section 313(a) of the Federal Clean Water Act, as amended in 1977, that Federal facilities "be subject to, and comply with, all Federal, State, interstate, and local requirements, administrative authority, and process and sanctions respecting the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity ...." Comparable provisions can be found in the Clean Air Act (Sec. 118), the Resources Conservation and Recovery Act (RCRA, Sec. 6001), the Toxic Substances Control Act, the Safe Drinking Water Act, and the Noise Control Act (Sec. 4(b)).

Unfortunately, this is an area in which the practice falls far short of what Congress intended.

Specifically, EPA and the Justice Department have established a policy (dating back to at least February 15, 1979) of blanketly precluding enforcement actions in the courts from ever being pursued by EPA against federal facilities which violate their pollution control responsibilities. Although one would hope that such disputes could generally be resolved through negotiation within the Executive Branch, it is obvious that EPA's negotiating position is severely weakened if the parties know from the outset that the sanction of court prosecution is entirely out of the question.

Moreover, EPA has more recently made clear in the context of the Superfund program that otherwise eligible hazardous waste sites which result from the operation of active Federal facilities "should not be included as candidates for the National Priorities List [under Superfund]." (See, Jan. 28, 1982, Memorandum from William N. Hedeman, Jr., Director, EPA Office of Emergency and Remedial Response, to Superfund Coordinators, EPA Regions I-X). Pursuant to this policy, the list of priority hazardous waste sites (419 at present) developed by EPA in recent months does not include a single site associated with a federal facility. While we recognize and appreciate the desire not to expend Trust Fund moneys under Superfund for the cleanup of Federal sites (the latter should be cleaned up using appropriated funds), we see no legal or logical justification for not subjecting sites on Federal facilities to the same sort of hazard ranking and evaluation as is applied to high-hazard sites in the private sector. It is important for the public to know where the highest-hazard sites are located--irrespective of whether private industry or the

Federal Government was responsible for creating the hazard. (We don't necessarily object to DOD facilities doing their own hazard rankings--as long as the results are ultimately integrated into the National Priorities List.)

Finally, Federal facilities have, on occasion, sought (often successfully) to exempt themselves from the "primary industry criteria" of the Clean Water Act (on the basis that DOD installations, no matter how industrial in nature their operations, are per se not "primary industries" as defined under Section 307 of the Act). As a consequence, priority toxic pollutants are less likely to be tested for, identified, and treated when emanating from a Federal installation than when discharged by a non-Federal source. This result seems in direct conflict with the "equivalence" requirement of Section 313(a).

Mr. Ruckelshaus, at his confirmation hearing in 1970, addressed the issue of polluting activities by Federal facilities. Responding to a concern raised by Senator Baker, Mr. Ruckelshaus agreed that "the Federal Government" is indeed "one of the biggest polluters in the country," that EPA's responsibilities "obviously" include "the responsibility to see that the Federal Government itself ceases polluting" and that "we intend... to see [to it] that the Federal installations in the country clean up their effluents and emissions as quickly as possible." He also agreed that EPA should be "particularly strict, even severe, in seeing that Federal agencies would first be brought into compliance in this field."

Particularly in light of the views previously expressed by Mr. Ruckelshaus--with which we concur--I urge Mr. Ruckelshaus, as EPA Administrator, to address himself to the three problem areas we have identified in an effort to get this program back on track.

Conclusions

I assume that Mr. Ruckelshaus will, upon his confirmation, move expeditiously to restore a sense of mission to EPA, to reinstate the public rather than the business community as EPA's main constituency, and to correct critical staff and budget shortfalls.

However, the ultimate test of the wisdom of the President's nomination of Mr. Ruckelshaus (and of our support for and your confirmation of that nomination) will be whether the appointment of a new EPA Administrator marks a new sensitivity on the part of the Administration to the severity of the environmental problems confronting our air, land, and water resources.

We and the country will follow Mr. Ruckelshaus's performance closely and with anticipation, as he and the Administration develop positions on the major environmental statutes which must be reauthorized during this Congress. We will especially look forward to seeing strong initiatives from the new Administrator on abating the scourge of acid rain, controlling nonpoint sources of water pollution, continuing to safeguard ecologically critical wetland resources, reversing the tide of toxic chemical contamination in the Great Lakes region and throughout the country, ensuring that the ocean does not become a free and easy dumping ground for harmful wastes, and applying at least as strict a standard for controlling toxic pollution from federal facilities as is applied to private industry.

The challenges Mr. Ruckelshaus will face are difficult ones. We pledge to work with him for the common good of the country.

SIERRA
CLUB

330 Pennsylvania Avenue, S.E.
Washington, D.C. 20003 (202) 547-1141

STATEMENT OF JOHN A. McCOMB
Director
Sierra Club - Washington Office
concerning the
nomination of William D. Ruckelshaus
to be Administrator
of the Environmental Protection Agency

Before the
Committee on Environment and Public Works
United States Senate
Washington, D.C.

May 3, 1983

Mr. Chairman, I am John A. McComb, Director of the Washington Office of the Sierra Club. The Sierra Club is a 91-year old citizen environmental organization. We currently have 345,000 members organized in active chapters in every state and active groups in over 300 localities. The Sierra Club's interest in the Environmental Protection Agency dates from its creation in 1970.

The task ahead for the Reagan administration and for the new Environmental Protection Agency is an arduous, perhaps even formidable one. It is to rebuild public confidence in EPA as the strong, committed protector of the environment, especially as it relates to public health and safety.

Frankly, we are disturbed by elements of the past record of Mr. Ruckelshaus, both as former EPA Administrator and especially as a Senior Vice-President for the Weyerhauser Company. In contrast to his predecessor, his widely acknowledged competence and integrity could simply result in more efficient administration of the same misguided policies.

Mr. Ruckelshaus has a new client now -- the American public. Will he adequately represent that client? He has the ability. But, does he have the personal committment and sufficient authority within the Reagan administration? Competence alone does not mean he will represent that new client well.

A number of important questions need acceptable answers. It should not be sufficient merely to improve on the dismal law enforcement record of his predecessor. Likewise, it should not be sufficient simply to seek some restoration of the budgetary resources necessary for EPA to do its job, although a minimum standard here would be a Fiscal Year 1984 level of 1.35 billion dollars.

Crucial questions remain about how Mr. Ruckelshaus will exercise his administrative discretion. Will he prepare and release an actual timetable for cleaning up the 419 priority hazardous waste sites identified under the Superfund program? Will he establish tough controls on the more than 100 toxic pollutants now being discharged by industry into our lakes and streams?

What kinds of changes will he propose in laws such as those regulating clean air and water which are now under review in Congress? A key test here would be support for new legislation to reduce by 50% the pollution that causes acid rain.

How will he proceed with staffing of EPA's top positions? Who will be responsible for the important details of fulfilling public expectations of EPA?

These are questions to which the Senate deserves satisfactory answers -- and so does the American public.

The Sierra Club is concerned that Mr. Ruckelshaus does not agree with the structure and in some cases the goals of the statutes he will implement and enforce as EPA Administrator. It is difficult for the public to regain confidence in the EPA if the head of the agency believes that the statutory requirements he is bound to enforce are unreasonable and ought to be modified or eliminated. This was precisely the attitude taken by former Administrator Burford which led to the abuses in administering the laws, and which eventually resulted in her resignation.

Probably no greater example of this problem can be found than in the area of air pollution control. Of special concern to the Sierra Club is the prevention of significant deterioration (PSD) program. It was a law suit brought by the Sierra Club against Mr. Ruckelhaus in his capacity as the first EPA Administrator that forced the creation of the PSD program. The Sierra Club contended that it was inconsistent with the goal of the Act to "protect and enhance" air quality for the EPA to approve of state implementation plans that did not contain a program to prevent significant deterioration of air quality. But Mr. Ruckelshaus felt he had no obligation to protect clean air regions. His interpretation of the Act was ultimately overturned in the courts.

Mr. Ruckelshaus personally campaigned against the creation of the PSD program. He charged that the program "clearly means no growth in terms of power plants or major industrial facilities." This view has, of course, been disproven. The National Commission on Air Quality found that the PSD program had not impeded development. This sort of opposition on the part of Mr. Ruckelshaus served to promote greater industry opposition to the program.

Mr. Ruckelshaus' opposition also delayed by at least five years federal action to address increasing pollution in the National Parks. By 1980 the Director of the National Park Service declared air pollution and visibility deterioration the number one threat to parks.

More recent statements by Mr. Ruckelshaus regarding the Clean Air Act indicate that his basic attitude toward the PSD program has not changed. In a letter to Vice-President Bush, Mr. Ruckelshaus said, "...I do believe there is a possibility of fundamental change (emphasis added) in laws like the Clean Air Act if we go about it in a positive way."

Mr. Ruckelshaus also personally campaigned for the Reagan-industry Dirty Air Bill--H.R. 5252--during the last Congress. This bill would have totally eliminated the increment system in Class II and III and the short term increment system in Class I. Thus, Mr. Ruckelshaus has advocated the elimination of the PSD program in Class II and III areas for all practical purposes. He would increase twelve fold the allowable amounts of additional pollution in Class I national parks and wilderness areas.

If Mr. Ruckelshaus shares this view that the increment system should be nearly eliminated from the PSD program, we question whether he will be able to enforce it with any greater enthusiasm than the previous Administrator. The American public is not interested in making fundamental changes to the Clean Air Act. They want Mr. Ruckelshaus to enforce it fully. Is Mr. Ruckelshaus willing to do that?

Mr. Ruckelshaus will make crucial regulatory decisions about the future of the PSD program. In view of the position taken by his previous employer plus his own apparent antagonism toward the program, we have grave concerns about the future of protection for clean air regions in this country.

Not only does Mr. Ruckelshaus appear to share the views of his predecessor regarding the structure and objectives of some environmental statutes, but he shares her view of the need for "regulatory relief." This is an idealistic concept which maintains that the government can regulate pollution and other undesirable corporate activity without actually regulating it. This is an approach that was tried in the 50's and 60's and failed.

The regulatory statutes of the 70's were passed because the American people were demanding action and a more direct approach was the only one which showed promise of results. Significant results in pollution control were in fact achieved during the 70's. Ms. Burford did not agree with this approach and sought to modify existing EPA regulations to deregulate the affected industries. She also cut back on the enforcement of regulations in favor of negotiating settlements with various businesses. Public opposition to her activities skyrocketed when it was learned that these negotiated agreements were not always in the best interest of the public.

Mr. Ruckelshaus endorses the regulatory relief concept, too. In a letter to Vice-President George Bush regarding Administration policy on Clean Air Act amendments Mr. Ruckelshaus said, "...deregulation is and has been a central part of the Administration's economic recovery program and the Clean Air Act amendments are the first big test of how successful that program will be in coping with social regulation. It is my belief that the opportunity and hazard presented to the Administration in the Clean Air Act struggle greatly outweigh the importance of the issue of air pollution." As he further stated in a letter to Ernst Minor of the Council on Environmental Quality regarding regulation of carcinogens, "the public does not understand how extreme our current statutory framework is,...." These statements certainly reflect the attitude of Mrs. Burfurd, as well. Will Mr. Ruckelshaus' "regulatory relief" differ from Mrs. Burford's "relief" only in that it is not outright illegal?

A measure of Mr. Ruckelshaus' intentions will be the attitudes and backgrounds of the individuals he brings into the other top policy positions at EPA. Almost all the top policy people at EPA under Mrs. Burford came from the industries EPA regulates. In fact some had either actual or apparent conflicts of interest. Part of the loss in public confidence in EPA derives from the actual and perceived "cronyism" between the regulators and the regulated.

Those with substantial industry connections have administered environmental laws to give the benefit of the doubt to the regulated industries rather than to protection of the public health and the environment.

Mr. Ruckelshaus should not recruit as subordinates people who have a similar pattern of substantial ties to the industries EPA regulates. If Mr. Ruckelshaus replaces old industry people with new ones, the public is bound to believe that the Ruckelshaus EPA is simply the old Burford EPA with a new bow on its hat.

The history of Mr. Ruckelshaus' past policies and remarks does not give us confidence that the manner in which environmental laws are administered will significantly change from the pattern over the past two years. On the other hand, we do not rule out the possiblity that he could do the job of environmental protection which a strong majority of the American expects from the EPA. We do urge the Senate to seek understanding and commitments from Mr. Ruckelshaus and the administration as to what kind of EPA we will have in the future.

National Audubon Society
NATIONAL CAPITAL OFFICE
645 PENNSYLVANIA AVENUE, S.E., WASHINGTON, D.C. 20003 (202) 547-9009

CONFIRMATION HEARINGS ON WILLIAM D. RUCKELSHAUS, ADMINISTRATOR-DESIGNATE, ENVIRONMENTAL PROTECTION AGENCY

TESTIMONY OF THE NATIONAL AUDUBON SOCIETY

PRESENTED BY WILLIAM A. BUTLER
VICE PRESIDENT FOR GOVERNMENT RELATIONS AND COUNSEL

BEFORE THE SENATE COMMITTEE ON
ENVIRONMENT AND PUBLIC WORKS

MAY 3, 1983

Mr. Chairman, members of the Committee ______

My name is William Butler. I am Vice President for Government Relations and Counsel of the National Audubon Society. We appreciate the invitation to appear before you today to express our position on the appointment of William Ruckelshaus as Administrator of the Environmental Protection Agency.

I. Summary

In summary, our views are as follows. Mr. Ruckelshaus is an experienced candidate for the job. Subject to the Committee receiving satisfactory answers from him regarding concerns we and others here today raise, we believe we can work with him. We are, however, greatly troubled by some positions taken by Mr. Ruckelshaus on environmental matters. We fully recognize that some of these expressed while employed by Weyerhaeuser may have been the comments of an advocate for his employer's interests. We would like to share our concerns with this Committee nonetheless, so that Mr. Ruckelshaus might be asked which of these views are his own, and which he was advocating on behalf of Weyerhaeuser. Neither we, nor we think Mr. Ruckelshaus, believe that what is best for Weyerhaeuser is necessarily best for the rest of us. As Administrator of EPA, Mr. Ruckelshaus should be the people's advocate, responsible for the safety, health, and environmental quality shared by us all.

Regardless of the personal qualities and suitability of Mr. Ruckelshaus for this position, the National Audubon Society will judge his record as Administrator on whether or not he makes the necessary policy changes at the

Environmental Protection Agency. Therefore, our position now is one of wait and see. In the final analysis, President Reagan is the ultimate Administrator of EPA. We have seen no evidence that the policies of Mr. Ruckelshaus' predecessor, Anne Burford, were disapproved by the White House. Therefore, Mr. Ruckelshaus' success or failure from our perspective will depend upon his ability to bring about changes in EPA policies to date basically dictated by the White House. Further, to the extent that our concerns outlined below represent Mr. Ruckelshaus' own views, as opposed to Weyerhaeuser's, we are distressed by them and think that he might do well to reassess these positions in light of his new responsibilities, just as he is reassessing all other policies of the agency he inherits in order to make them reflect the best interests of the country as a whole. What follows is an expansion upon these thoughts.

II. The Ruckelshaus Candidacy

Mr. Ruckelshaus is well qualified to serve as Administrator of the Environmental Protection Agency. He is obviously experienced. He did a good job as the first Administrator of the Agency, although the environmental community, including the National Audubon Society, by no means agreed with all of his decisions at that time, and does not expect to agree with all of his decisions in his second stint as Administrator. We recognize that reasonable people can and do differ. Our Pacific Northwest chapters in the last few years have had several serious differences of opinion with Weyerhaeuser and Mr. Ruckelshaus. However, his personal qualities are certainly those which the job requires: integrity, independence of mind, candor, self-deprecation, humor, and above all, pragmatism.

We are especially appreciative of his advocacy of an open process of decisionmaking, in which all views are heard even if they cannot all in the final analysis be heeded. As illustration of this openness, a number of us have already had one or more meetings and/or conversations with Mr. Ruckelshaus regarding our concerns at the directions of the Environmental Protection Agency and its policies in the first years of the Reagan Administration. His predecessor never accorded us a comparable opportunity. At a recent meeting with some of us, held April 14 at the Council on Environmental Quality, he stated that he would reassess all aspects of the Agency's policies, appointments, and resources, the latter both in terms of money and personnel. He said that if he determined that the Agency needed more resources to do its job, he would not hesitate to make such a recommendation to the White House. We frankly expect such a recommendation to be forthcoming. He also said that his appointments to the Agency would be experienced, pragmatic, and open. We look forward to this change in the Agency's operating procedures.

We await the specifics of Mr. Ruckelshaus' decisions here and elsewhere before passing any judgment. We remain frankly skeptical, however, that the President and the Director of the Office of Management and Budget will be responsive to the environmental needs of the American people. We hope Mr. Ruckelshaus will modify not only White House views, but those of his own policy positions which in our opinion run contrary to those needs. Illustratively, we look for a significant departure from the Agency's previous stands opposing the reauthorization and/or amendment of strengthened Clean Air, Clean Water, Harzardous Waste Disposal, and Pesticide Acts, among others.

III. Our Concerns

Having first acknowledged that Mr. Ruckelshaus is clearly qualified for the job, we now wish to share with the Committee specifically the basis for some of our concerns regarding Mr. Ruckelshaus' policy views. We reiterate our uncertainty as to whether these are the views of an advocate for a client, or the personal views of the candidate himself. To the extent that they constitute the latter, and some apparently do, we think that it is the responsibility of this Committee during these confirmation proceedings to examine them thoroughly so that the Senate, and the country at large, might know the man, as opposed to the media myth, that they are getting as the next EPA Administrator.

In the interest of time and by prearrangement with the other environmental groups appearing before you today, we will restrict our comments largely to matters involving reauthorization of the Clean Air Act, although we also share in many of the concerns expressed to you today by sister environmental groups involving other areas of responsibility of the Environmental Protection Agency and about which Mr. Ruckelshaus has made statements on policy judgments differing from our own, and in some instances, from those of this Committee.

A. The Clean Air Act

As the Committee knows, the American public overwhelmingly supports a strong Clean Air Act. This support has increased markedly over the last two years, as the Congress has grappled with the Act's reauthorization. In a recent poll for Business Week, conducted by Lou Harris, only 7% of the respondents favored weaker clean air laws, down from 17% two years earlier.

The American public recognizes the costs involved in cleaning the air and feels that the benefits are worth the expenditure. By a margin of 78% to 17% the public felt in the same Harris poll that even if jobs might be saved and a factory prevented from closing down, that factory should not be exempted from pollution control requirements. Despite the continuing problems of the auto industry, only 26% favored relaxing auto pollution standards. Only 19% supported easing air standards to increase the use of coal and high sulfur oil. Other polls confirm these findings.

In recognition of the desires of the public, this Committee, and its counterpart in the House, have rejected attempts by the Administration and polluting industries drastically to weaken the current law. While the National Audubon Society has many serious disagreements with S. 768, the Committee's clean air compromise, its passage in Committee last year was clearly a defeat for those special interests who sought more devastating changes to the law. Mr. Ruckelshaus apparently represented one of those interests.

During the last Congress, the Committee will remember that the Administration and its allies supported H.R. 5252, the Dingell-Broyhill bill, which would:

1. Weaken drastically the program that forces states to clean up unhealthy air (the "non-attainment program") by:

   o extending unnecessarily deadlines for cleaning up the air, even in areas that can meet earlier deadlines if strong controls were used;

   o dropping the requirement that new factories use the best feasible clean-up technology (the "LAER requirement"); and

   o dropping the requirement that pollution from new plants be "offset" by reductions from existing plants.

2. Cripple the program that keeps clean air clean by:

- allowing dramatic increases in the amount of pollution spewing into national parks and wilderness areas (Class I areas);
- allowing dramatic increases in pollution in over 100 million acres of national treasure lands (mandatory Class II areas);
- eliminating the requirement that pollution in non-park and wilderness areas be budgeted so that clean air is available for future growth (Class II areas - most of the nation); and
- weakening the definition of "best available control technology" so that new plants in clean air areas will not have to meet current, more stringent requirements.

3. Increase automobile pollution by:

- doubling allowable emissions of carbon monoxide and nitrogen oxide;
- shredding the warranty program that guarantees that emissions control equipment is fixed at the auto manufacturers' and not the consumers' expense; and
- weakening the enforcement tools EPA needs to insure that cars meet even these weaker standards.

4. Do nothing about acid rain.

5. Do nothing to improve control of toxic air pollutants that cause cancer.

Our review of Mr. Ruckelshaus' correspondence and speeches on the Clean Air Act indicate that he was a strong supporter of H.R. 5252. The record further indicates that he sought an active role in pushing the Administration's positions through the Congress.

Mr. Ruckelshaus has repeatedly argued that certain aspects of the Clean Air Act result in unnecessary public expenditure of hundreds of millions of dollars. In May, 1982, he stated before an audience in Los Angeles that "America will be spending hundreds of millions of dollars to conform to certain aspects of the Clean Air Act and other environmental legislation.

These millions will produce very little public benefit. That is a tragedy for this country."[1] In testimony before this committee on April 9, 1981, he stated that "I am convinced that our present statutory scheme is causing our society to spend very large sums of money for marginal public benefit."[2] We emphatically disagree with these contentions. As the poll data described above show, so do the American people.

Industry claims of macroeconomic harm caused by the Clean Air Act are simply false. Moreover, the most comprehensive cost benefit study done to date indicates that the benefits of the Clean Air Act outweigh its costs by over $4 billion. Nowhere in Mr. Ruckelshaus' writings, that we have been able to find, does he provide any detailed support for his statements.

Only ten days after the inauguaration of this Administration, Mr. Ruckelshaus wrote Vice President Bush to discuss the possibility of "fundamental change in laws like the Clean Air Act."[3] Six months later he elaborated his thoughts to Vice President Bush in another letter, in which he laid out the problems facing the Administration in its attempts to rewrite the Clean Air Act. In his letter, Mr. Ruckelshaus argued:

> "The Clean Air Act is a complicated pervasive law that is causing our society to spend very large sums of money for marginal benefits and thus should be changed.
>
> ... The Congress is largely ignorant of the impact of the law.
>
> ... Public support [for weakening changes like those in H.R. 5252] is constantly undergirded by a strong media bias in favor of continued stringent environmental regulation.

> ... Obtaining change in the law is further complicated by the rhetorical difficulty of advancing an argument which appears to place profit over public health."[4]

Despite these problems Mr. Ruckelshaus concluded that the situation "is difficult but not hopeless." He concluded, "I think you can win."

Mr. Ruckelshaus went on to propose a legislative strategy for victory including press conferences and the marshalling of business and academic allies. His strategy would, he suggested, permit "Bob Stafford to back away from his public position and save face with his constituents and the environmentalists."[5]

Mr. Ruckelshaus' support was not passive. For example, Mr. Ruckelshaus' correspondence indicates strong specific support for H.R. 5252. He wrote to Congressman Wyden (among others) that: "H.R. 5252 retains the basic approach to cleaning up our nation's air that has worked well to date, but removes or changes those aspects of the program that from experience we have learned are inefficient or too costly. It is a sensible streamlining that still keeps protection of the people's health as its fundamental goal."[6]

Mr. Ruckelshaus goes on in his letters to Congressmen urging support for H.R. 5252 to highlight some of the aspects of the bill which he particularly favors:

- elimination of the Class II and Class III increment system under the PSD program
- replacing the current technology requirement for new sources in non-attainment areas with NSPS requirements.
- doubling of carbon monoxide and nitrogen oxide standards for automobiles.

Obviously we are very distressed by these views. So should be this Committee, which has for the most part already rejected them. And so should the American people.

B. Cost/Benefit Analysis

The second issue I would like to focus on today is the proper role of cost/benefit analysis in environmental legislation and decision making. Many of the members of this Committee were the architects of the environmental laws we have on the books today. For the most part these laws have categorically rejected giving a determinative role to qualitative or quantitative cost/benefit analysis in deciding questions of public health and environmental protection. Instead, they have opted for a preventative approach to protecting public health. Reliance on a public health standard rather than on cost/benefit balancing is, with few exceptions, the basic principle of our laws protecting public health and environment. This approach recognizes the futility of making determinative attempts to compare the costs and benefits of specific public health policy, given the practical difficulties and the ease of translating value judgments into numbers.

Mr. Ruckelshaus' letters and speeches strongly support a cost/benefit balancing approach to protecting public health. He urges cost/benefit balancing, for example, in setting ambient air standards under the Clean Air Act, a position so at variance with commonly held notions of what is appropriate that it was not even seriously considered by this Committee. Mr. Ruckelshaus wrote to Vice President Bush that:

> 'My own belief is that a logical approach necessitates changing the process by which we

> currently set ambient air quality standards. The standards are based entirely on the establishment of a level of air quality at which adverse health or environmental effects occur. The law then mandates a margin of safety be established below these health or environmental effects and a numerical ceiling be set. I don't believe that it is possible to tinker with or fine tune the regulatory program and make any real progress. There must be a clear upfront recognition that attempting to cope with air pollution by using health and environmental effects as the sole determinant of national policy is inherently irrational."[7]

In his April 9, 1981 testimony before this Committee, Mr. Ruckelshaus stated that "[i]n many environmental laws, the necessity of balancing risks and costs and benefits is made explicit. It should be made so here."[8]

The Clean Air Act is not the only place Mr. Ruckelshaus feels that a health based standard should give way to at least a qualitative cost/benefit standard. On May 9, 1980, he wrote concerning the Toxic Substances Control Act that "it was not helpful to introduce the term 'unreasonable risk' into the statute or related decision making. It would have been better for the Congress to mandate that the Administrator balance benefits, costs and risks in deciding whether and how to move against certain chemicals."[9]

To be fair, we acknowledge that there are of course instances where cost/benefit analysis, despite its difficulties of application to the environmental area, has a place. One such might be in establishing Agency regulatory priorities, or in choosing between competing methods to achieve a health based standard. But to replace health based standards with a statutory requirement for even a broad qualitative cost/benefit balancing invites at the least disguising subjective value judgments as logical mathematical formulae, and at worst sacrificing public health for political advantage. We urge this area as a critical one for Committee questioning tomorrow.

IV. Conclusion

Over the last two years, the American public has lost faith in the Environmental Protection Agency. This crisis in confidence has occurred because the public perceives that Mr. Ruckelshaus' predecessor and her appointees were more interested in protecting polluters than public health or the environment. New appointees and an increased budget are necessary but not sufficient to restore that confidence. There must be significant changes in EPA policy.

Mr. Ruckelshaus has the opportunity to restore that confidence by making the necessary policy changes. We hope that he does. But as we have highlighted in this testimony, Mr. Ruckelshaus has supported the Administration's past attempts to weaken the Clean Air Act, attempts we opposed and the Committee largely rejected. We do not share his enthusiasm for substituting a cost/benefit balancing test for health based standards. Neither do we endorse his general observation that current environmental statutes cause us to spend large sums unnecessarily for only marginal benefits. We do not think that these views are supported by the American people either. Whether they were stated as his own or Weyerhaeuser's positions we do not know, and hope the Committee finds out, but we hope that as Administrator, he will modify them. The health and environment of America will be the losers if he does not.

FOOTNOTES

1/ Reprinted in Town Hall Journal, May 25, 1982, at 173.

2/ Testimony of William D. Ruckelshaus April 9, 1981 before the Senate Committee on Environment and Public Works regarding reauthorization of the Clean Air Act, at 4.

3/ Letter of W. D. Ruckelshaus to Hon. George H. Bush, Vice President of the United States, January 30, 1981, at 1.

4/ Letter of W. D. Ruckelshaus to Vice President George Bush, June 18, 1981, at 2.

5/ Ibid., at 4.

6/ Letter of W. D. Ruckelshaus to Hon. Ron Wyden, March 2, 1982, at 1.

7/ Footnote 4 supra, at 3.

8/ Footnote 2 supra, at 6.

9/ Letter of W. D. Ruckelshaus to Mr. Michael Gough, May 9, 1981, at 1.

environmental action
Suite 731 1346 Connecticut Ave. NW Washington, DC 20036 (202) 833-1845

STATEMENT

OF

SIDNEY M. WOLF

BEFORE THE

UNITED STATES SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

REGARDING

CONFIRMATION OF WILLIAM D. RUCKELSHAUS AS ADMINISTRATOR FOR
THE ENVIORNMENTAL PROTECTION AGENCY

MAY 3, 1983

I wish to thank the U.S. Senate Committee on Environment and Public Works for the opportunity to testify on this crucial matter of the Senate confirmation consideration of a new EPA Administrator.

Virtually every responsible element of our society agrees that a stop should immediately and completely be put to the chaos and damage which has been caused at EPA as a result of the scandals, mismangement, and anti-environmentalism attributable to the highest officials in the Agency and the Administration. It is clear that the job of the EPA is to protect human health and the environment from very real and substantial threats of pollution, and it is now just as clear that for the past two years the Agency has purposely been nearly destroyed so that it cannot do its job.

To quiet public outrage the President has been compelled to rinse the Agency of all its top management officials and appoint a new Administrator who might have an image which would regenerate lost public confidence in EPA and reverse the public perception that this Administration cares little about environmental protection.

The person chosen to head and throw a cloak of respectibility over EPA is William Ruckelshaus, senior vice-president of the multi-billion dollar Weyerhaeuser Company, a company which produces lumber, paper, plywood, wallboard and chemicals and which is second only to the Federal Government in owning land in the U.S. Mr. Ruckelshaus has a "good guy" image because of his serving as the first Administrator of EPA and his resignation as Deputy Attorney General rather than follow President Nixon's order to fire Watergate prosecutor Archibald Cox in the famed Saturday Night Massacre of October 1973.

No one doubts the personal integrity of Mr. Ruckelshaus, nor the sincerety of the beliefs he happens to hold about pollution control, which nevertheless may not be shared by many people concerned about environmental and public health protection. But we have a disturbing contradiction here of a man with an image of Mr. Clean who was directly responsible for the activities of a company which made it one of the filthiest polluters in the nation, joining the list of Environmental Action's (EA) "Filthy Five" companies in 1981. (The other members of the Filthy Five were Dow Chemical, Occidental Petroleum, Republic Steel, and Stantard Oil of Indiana (Amoco)).

Perhaps the nicest thing we could say about the former Administrator of EPA was that when she took the job there would be no conflict of interest resulting from previously working for a major polluter. She was more of a clumsy idealogue for environmental regression and a henchman for polluters. The very pleasant Mr. Ruckelshaus is no conservative demagogue or nihilist. But there has never been an EPA chief who has arrived from a major polluter, and thus presents an unprecedented conflict of values and interests.

It should be emphasized that Mr. Ruckelshaus is responsible for the pollution record and views of Weyerhaeuser, good and bad. He was Senior Vice-President for Law and Corporate Affairs, and a member of the Senior Management Committee, which sets company policy. As a Senior V-P he oversaw four company departments: Government Affairs; Corporate Communications-Public Affairs; Legal; and Environmental and Regulatory Affairs. During the confirmation inquiries you will come across statements and correspondence relating to pollution and environmental issues from other Weyerhaeuser personnel. They cannot be disassociated from Mr. Ruckelshaus, who set the policies they followed and and was responsible for directing their actions.

Today I want to describe the serious, flagrant, persistent and widespread disregard for environmental well-being which has been the behavior of the Weyerhaeuser Corporation. Like it or not, Mr. Ruckelshaus emerges from Weyerhaeuser and what that company has done, good and bad, is a reflection upon him and the kinds of attitudes and conflicts of interest which he brings to the Agency. It would be pollyannish not to think that a major reason President Reagan nominated Mr. Ruckelshaus was for a favorable public image, much the same reason Weyerhaeuser hired him. What is important is not appearances, but reality. Consequently, the ultimate test for any changes at EPA is not cosmetic moves to "restore confidence" but whether there truly will be a reversal to the destruction done to EPA's ability and committment to protect people and the environment from pollution.

Between 1977 and 1982 more than 1,300 violations have been reported against Weyerheuser on which no fines were levied and 277 on which total fines were hundreds of thousands of dollars. Large fines and settlements invariably represent pollution episodes of a corresponding magnitude. In 1979, EPA sought a $750,000 fine against Weyerhaeuser for water pollution violations caused by the company's huge Longview, Washington paper mill. The company settled out of court in 1980 and paid $135,000. Our research, which by no means is complete, has found that for 277 air and water pollution violations between 1977 and 1982 Weyerhaeuser was cited for fines totaling $855,361 and settled or paid $207,340.

I hope that Mr. Ruckelshaus does not ascribe to the view his company seems to hold that a little pollution now and then from a large manufacturer is not bad, a common industry attitude. A March 26 New York Times article reported that Weyerhaeuser's response to questioning about its 13 air pollution violations in a four-county area around Seattle and several fines from the state for air and water pollution violations elsewhere in Washington during last year was that the citations were few in light of the size of its operations in the state. Pollution quickly adds up, and a little pollution from the many sources creates serious damage and threats. We have much to fear if the head of EPA adopts the perspective of his former employer which does not understand the cumulative impact of seemingly small amounts of pollution from many sources.

Following the eruption of Mt. St. Helens in May 1980, Weyerhaeuser began to remove damaged timber from around the Toutle River. The "largest and most blatant violation of the State Shorelines Act, " was what Washington State Assistant Attorney General Bob Jensen called Weyerhaeuser's indiscriminate clearcutting of all the timber in the area despite the restriction in its emergency permit that only damaged timber could be taken. The Act creates a 200 foot buffer zone along certain significant wilderness waters to protect the shores from development. Weyerhaeuser took advantage of the enormous natural disaster to make a quick profit, with the result being serious man-made economic and environmental damagae. The degradation of water quality, soil erosion, and loss of habitat affecting the rebuilding of fish and water resources were impacts that a Washington Department of Ecology memorandum declared "will have an adverse effect on the environmental quality and economic stability of the region and the State of Washington as a whole."

It is not as though Weyerhaeuser made a simple mistake, and then sought to immediately stop or take corrective action once informed by the State of Washington. No, Weyerhaeuser practiced deception and worsened in its acts. Three times company officials met with state and county officials and at each instance stated the clearcutting would cease along the banks of the Toutle River until further consultations with local officials. Despite these promises the clearcutting not only continued, but, according to local residents, actually increased.

Weyerhaeuser's disdain for the State Shorelines Act, and the public will it represented by being overwhelmingly approved by Washington voters in 1971, went beyond violating the law to efforts to gut it. The company clearly does not like the Shorelines Act and has lobbied for state legislation to greatly weaken it.

Weyerhaeuser is an integrated forest products company with manufacturing operations and timber holdings in 27 states. Its poor environmental record extends to many of these other states.

For instance, in Rothschild, Wisconsin the Weyerhaeuser pulp and paper plant has created continual pollution problems. In June 1978, the Weyerhaeuser waste treatment plant failed, dumping polluted waste water into the Wisconsin River. This discharge continued throughout the summer of 1978 and impelled the Wisconsin Department of Natural Resources (DNR) to recommend legal action. Weyerhaeuser promised to fix the plant and stop the pollution. The plant failed again in June 1980 and the discharges continued throughout the summer. Residents complained of foul odors. In September of that year the DNR once again recommended legal action. To make matters worse the contaminated sludge which the plant produces at a rate of 260 tons daily has created its own problems. A landfill where the sludge was dumped had to be closed because the contaminants seeped into the groundwater.

The Weyerhaeuser gypsum plant in Briar, Arkansas has been a source of significant air pollution. The dust emissions from the stacks at this plant were so high that the EPA air testing equipment "caked up" and could not operate correctly. And despite a liberal air permit allowing them to spew up to 2,000 pounds of grit per day, Weyernaeuser applied for relaxation of the standard. State air enforcement authorities have been stymied by their lack of ability to obtain accurate readings at the plant. One state official had termed the company man in charge of pollution abatement at the plant as "a difficult man to deal with."

Oklahoma and Arkansas have experienced Weyerhaeuser's outrageous clearcutting practices, stirring the National Wildlife Federation to file a stockholders petition in Spring 1980 asking the company to institute wildlife guidelines on company lands in these states. In exchange for dropping the petition, the company promised to limit the size of clearcuts so as not to damage land and waterways. When we looked into this matter two years ago we noted that according to Rick Jamison, president of the Oklahoma Wildlife Federation, Weyerhaeuser had promised before to abide by similar restrictions but did not do so.

Mr. Ruckelshaus will be in charge of the much abused Superfund. He comes from a company with significant Superfund experience from coast to coast, being implicated in at least three of the worst dumps in the nation which have been placed on the Superfund list.

First there is the Stringfellow Acid Pits in California, the same Superfund dump where Rita Lavelle held up clean-up in order to subvert the Senate campaign of Jerry Brown and that contributed to her downfall. As the 11th largest dumper at Stringfellow, Weyerhaeuser was recently sued by the Department of Justice for the cost of clean-up.

We are truly in trouble if the Ruckelshaus EPA capitulates to "sweetheart" Superfund settlements of the kind which occured at the Seymour, Indiana dump, where Weyerhaeuser was one of the dumpers. The company escaped with a settlement totaling a mere $82,930. (See attachments of Weyerhaeuser correspondence.)

There was some question whether Weyerhaeuser dumped at the Epping, New Hampshire Superfund site which was operated by Keefe Environmental Services. In our attachments we have included what correspondence was available to us which indicates Weyerhaeuser denying to EPA the existence of any of their materials at Keefe.

Mr. Ruckelshaus will be faced with many difficult decsions relating to protecting the public and environment from dangerous pesticides. Hopefully he will not bring to EPA the desires and views of Weyerhaeuser. Weyerhaeuser has been urging EPA to lift the restrictions on the use of 2,4,5-T, a herbicide made by Dow Chemical which contains the most potent form of dioxin.

I have attached a letter from D.E. Rush, a Weyerhaeuser Vice-President, to EPA's ex-Deputy Administrator John Hernandez, declaring that the 2,4,5-T is needed to clear the company's southern conifer plantations of weeds. Ironic, isn't it, that it was Mr. Hernandez who took the unethical and unprecedented step of allowing Dow to edit an EPA report on dioxin. When Hernandez's counterpart in the Carter Administration EPA banned the herbicide in 1979, she gave as one of the reasons the remarkable high correlation between the forest spraying season in Oregon and the unusually high rate of miscarriages there. Hopefully when reviewing pesticides the decisions of Mr. Ruckelshaus will be nearer to the Administration's concern for the rights of the unborn than to Weyerhaeuser's preference for protecting their conifers from weeds.

Weyerhaeuser continues to spray the forests of Oregon and Washington with 2,4-D, which has not been banned by EPA. Both pesticides cause cancer and birth defects in animal experiments.

Mr. Ruckelshaus is a director on boards of some other organizations and companies which have been engaged in activities unfriendly to human health and the environment. He serves as a director of the American Paper Insitute (API), the timber industry's trade association. The API has consistently and conscientiously lobbied against every major piece of environmental legislation enacted in the 1970's and 1980's. The API sued EPA in 1979 to block restrictions on discharging wastes into the nation's waterways. Weyerhaeuser joined that suit and EPA settled last fall by agreeing to weaken the water pollution rules, which had the desired effect of reducing industry's cost of compliance.

Mr. Ruckelshaus is a director of Cummins Engine Company, a major manufacturer of diesel engines. Generally considered a progressive company, Cummins nevertheless shared with Weyerhaeuser the distinction of dumping chemicals at the infamous Seymour, Indiana Superfund site. Cummins, like many major industrial manufacturers, has an interest in current EPA reviews of such questions as whether to strengthen air pollution standards.

It is largely a foregone conclusion that Mr. Ruckelshaus will be confirmed as EPA Administrator. That is not the issue today. What is the issue is that Congress and the public continue to be vigilant over EPA to make sure, absolutely sure, that it does its job to protect health and the environment. Let's be blunt, the White House nominated Mr. Ruckelshaus largely for the purpose of generating a positive image, not out of concern for protecting the environment, a value for which it has demonstrated nearly total contempt.

All that glistens is not gold, so the saying goes, and with the political image-making of today one has to scratch below the surface to find the truth. You don't have to scratch very far in this case. Mr. Ruckelshaus is admittedly personable and a good manager, but given the views he has expressed since leaving government and the environmentally destructive and insensitive activities of a coroporation where he was in charge of environmental activities it is imperative that we not relax our vigilance and adopt the view that now all is well at EPA. It is up to Mr. Ruckelshaus to demonstrate by his actions, not his image, that EPA will do its job well.

Weyerhaeuser Company

Tacoma, Washington 98477
(206) 924-2345

December 21, 1982

Mr. John Spencer
Region Administrator
Environmental Protection Agency
Region X
1200 Sixth Avenue
Seattle WA 98101

Dear John:

Enclosed for your information is a chronology of the Seymour settlement discussions which I promised you.

J. S. Larsen
Vice President
Environmental & Regulatory
Affairs

CHRONOLOGY OF SEYMOUR SETTLEMENT DISCUSSIONS

Oct. 1, 1980	Dated notification from Dept. of Justice that we were a potentially responsible party with regard to cleanup of hazardous material at the Seymour Indiana hazardous waste disposal site.
Oct. 15, 1980	We indicated to Justice and EPA our willingness to enter into discussions and negotiations toward an appropriate settlement.
Oct. 15, 1980 to May 1982	A series of generator committee meetings, negotiations and inspection of the waste disposal site took place during this time period with very little progress toward settlement. At this time, our view of our liability was in the neighborhood of $25,000.
May 14, 1982	Letter from EPA requesting generators either individually or collectively undertake a remedial action feasibility study.
May 27, 1982	Weyerhaeuser reply to above request indicating our willingness to continue negotiations toward an appropriate settlement through the mechanism of a generators committee.
June 9, 1982	Generators and Government met to discuss a basis for settlement of about 31 generators, ourselves included. The generators offer was for $4.5 million and was rejected by EPA.
June 18, 1982	Report on June 14 meeting of generators where it was decided to prepare and offer the government a "Surface Cleanup Only" agreement and a new meeting of generators scheduled for June 29.
June - Aug. 1982	Several meetings and discussions took place during this time where differences between EPA and the generators group were discussed. EPA estimated $30 million to clean up the site. The generators through a competent contractor estimated $12 million to clean up the site. At this point, the 31 generator consortium fell apart.
Early Aug. 1982	We were informed by telephone that the generators were reforming to try to develop another settlement that EPA would accept. We were invited to participate at a cost of $150,000.

Aug. 12 1982	We declined to join above generators group because our view was still that our liability was only $30,000-$60,000 and even worst case could only be $90,000.
Aug. 19, 1982	Letter announcing a meeting of all generators for Sept. 10, 1982 which included approximately 100 generators.
Aug. 27, 1982	We informed Justice that D. C. Nicholson had replaced S. A. Heller as Weyerhaeuser's representative. We declined to attend meeting, but renewed our commitment to cooperate and requested copies of documents and information to be presented at the Sept. 10 meeting.
Oct. 4, 1982	Letter from Justice regarding Sept. 10 meeting and some brief explanation of the "covenant" not to sue.
Oct. 27, 1982	Newspaper announcement of Seymour settlement for $7.7 million to totally clean up surface by 24 companies. This cost is well below the EPA estimate and well within the generator committee estimate.
Oct. 28, 1982	Dated settlement offer from Justice with Nov. 29 deadline for response. Settlement cost $82,930 still based upon the EPA estimate of $30 million.
Nov. 10, 1982	Offer by Weyerhaeuser to settle for $32,300 based upon an adjusted calculation minus 33.5 tons from our total alleged contribution of 219 tons which was the amount of solvent sent to Seymour and repurchased after recycling. Delivered by certified mail with request that they call us to discuss the offer.
Nov. 19, 1982	Generators meeting with Justice and EPA to try and set up another generators committee and propose a settlement. The Government refused to consider any time extension of their Nov. 29 date or any other offer.
Week of Nov. 15	Telephone call to Stephen D. Ramsey to discuss our settlement offer. He claimed not to have seen it. We had another copy telexed to our Washington D.C. office and hand-delivered by messenger to Mr. Ramsey's office. Subsequent telephone calls and messages to return our call were ignored.
Nov. 29, 1982	Weyerhaeuser delivered signed covenant not to sue to USEPA Chicago office. This was done to prevent lengthy litigation and relieve the company of other potential liability. Cost will be $82,930.

September 1, 1982

Mr. E. Michael Thomas
U. S. Environmental Protection Agency
Office of Regional Counsel
JFK Building, Room 2203
Boston, Ma., 02203

re: CERTIFIED LETTER FROM MERRILL S. HOHMAN, DATED August 24, 1982

Dear Mr. Thomas,

Weyerhaeuser Company is willing to discuss potential liabilities and/or actions necessary to remedy alleged hazardous waste problems at the Epping, New Hampshire waste treatment facility for any materials which can be shown to have been placed there by Weyerhaeuser Company or its agent.

We would appreciate receiving any information you have regarding our involvement. The information and any further contacts should be to me.

Sincerely,

David C. Nicholson, Manager
Environmental & Regulatory Affairs

DCN/cb

cc: J. S. Larsen - CH 3D23
W. J. Ball - Sort 92
Roger Odell - Sort 32

September 2, 1982

E. Michael Thomas
Environmental Protection Agency
Office of Regional Counsel
JFK Building, Room 2203
Boston, Mas, 02203

Dear Mr. Thomas,

Since my first letter to you I have had an opportunity to review records which were not available to me when I wrote the first letter. I find that Weyerhaeuser Company has worked very closely with the New Hampshire authorities to determine if any of our materials remained at the site once bankrupcy was declared by Keefe. Our conclusion, based on that investigation, was that there were no materials of ours remaining at the site. This was reported to the state agency on June 25, 1981. We recevied a reply from the state on August 20, 1981, indicating that the state will assume that our information is correct and that the Keefe Environmental Services site contains no materials generated by Weyerhaeuser Company. The state did indicate if they would develop information which would indicate that Weyerhaeuser had materials remaining on the site, they would be in contact with us. Since we have received no contact from the state, we assume that our materials are not present on the site.

Even though it is our opinion that we have no materials on the site, Weyerhaeuser Company is prepared to discuss remedial actions should the EPA investigation turn up positive evidence that we still have materials remaining on the site. Lacking positive evidence, that our materials are still on the site, we consider the matter closed.

Sincerely,

David C. Nicholson, Manager
Environmental & Regulatory Affairs

DCN/cb

cc: J. S. Larsen - CH 3D23
Clyde R. Kalahan - CH 5
Roger Odell - Sort 32
Robert Renfro - Sort 114
Royce Stanford - CH 1H31
Dave Morris - CCB 4
W. J. Hall - Sort 92

August 31, 1982

David S. Mowday
Acting Director
Toxics and Waste Management Division
U. S. Environmental Protection Agency
215 Fremont Street
San Francisco, Calif., 94105

Dear Mr. Mowday,

We are in receipt of your letter of August 25, 1982, alleging that we have disposed of materials which may be considered hazardous material at the Stringfellow Hazardous Waste Disposal site in Riverside County in California. Please be advised that Weyerhaeuser Company is willing to discuss undertaking voluntary remedial action should further investigation establish that we did in fact dispose of materials which are considered hazardous.

When further information is developed, you should send it to me and I will provide an appropriate response.

Sincerely,

David C. Nicholson, Manager
Environmental & Regulatory Affairs

DCN/cb

cc: Walt Paulson - CH 3K26
J. S. Larsen - CH 3D23
R. J. Dollen - Sort 85

bcc: Doug Amsden - Sort 169
John Catlin - Sort 124
Dar Rosito - Sort 139

Weyerhaeuser Company

Tacoma, Washington 98477
(206) 924-2345

October 12, 1982

Dr. John W. Hernandez
Deputy Administrator (A-101)
U. S. Environmental Protection Agency
401 M St. S.W.
Washington, D.C., 20460

Dear Dr. Hernandez,

I have become greatly concerned about the seeming lack of progress in negotiations for the lifting of the suspension of forestry uses for 2,4,5-T. We had hoped that the chemical would be available for the 1983 spray season. We are currently in the process of putting together our spray plans for 1983, and soon will be ordering the chemicals needed. At the present time, many of our plantations, particularly those in the southern states, are literally being choked with weed species of trees for which there seems to be no substitute available other than 2,4,5-T. Even though we have experimented with a number of other chemicals, none seems to be as efficient or be as safe for the conifers as is 2,4,5-T.

It would be appreciated if you would take some time from your busy schedule to look into the status of the 2,4,5-T negotiations and do what you can to expedite the solution to this issue.

Sincerely,

DERush

D. E. Rush, Group Vice President
Timberlands & Raw Materials

DER/cb

cc: Robert Perry - EPA, D.C.

bcc: J. S. Larsen - CH 3D23
D. C. Nicholson - CH 3D23
Conor Boyd - CH 1D24
John McMahon - CH 1D26

Natural Resources Defense Council, Inc.

1725 I STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20006

202 223-8210

[illegible]
[illegible] STREET
[illegible]
[illegible]

Western Office
25 KEARNY STREET
SAN FRANCISCO, CALIF. [illegible]
415 421-[illegible]

TESTIMONY OF RICHARD E. AYRES
SENIOR STAFF ATTORNEY
NATURAL RESOURCES DEFENSE COUNCIL

on the
Nomination of William D. Ruckelshaus
to be Administrator
Environmental Protection Agency

May 3, 1983

TESTIMONY OF RICHARD E. AYRES
SENIOR STAFF ATTORNEY
NATURAL RESOURCES DEFENSE COUNCIL
on the
Nomination of William D. Ruckelshaus
to be Administrator
Environmental Protection Agency
May 3, 1983

This hearing has been called to examine the qualifications of William D. Ruckelshaus to be Administrator of the Environmental Protection Agency. Ordinarily, the fact that he has served in this post before would assure a swift and uneventful confirmation.

But these are not ordinary times. The past two years at EPA have raised serious concerns about whether this Administration shares the overwhelming commitment of the American people to a clean and healthy environment. The drastic reductions in budget and staff at EPA, and the wholesale embrace of extreme policies suggest an ouright hostility to environmental protection in the Reagan Administration.

If the record is to be repaired, Mr. Ruckelshaus must increase the budget and staff at EPA to levels that permit the Agency to perform its job. He must also reverse the misguided policies of his predecessor and restore the protection of the environment as the mission of the EPA.

Given the circumstances which have caused this hearing, the Committee should conduct a searching inquiry into Mr. Ruckelshaus' views and any limits on his freedom to carry out the laws you have enacted.

Mr. Ruckelshaus is known as a good administrator. He also has a reputation for integrity, resulting in part from his refusal to follow President Nixon's order to fire special Prosecutor Archibald Cox during the Watergate investigation.

Mr. Ruckelshaus' standing as an environmental statesman remains something of an enigma, however. For his actions at EPA and his statements since then reveal that his basic philosophy of pollution control is far closer to Ronald Reagan's than to the anit-pollution laws Congress has enacted.

I. RUCKELSHAUS' VIEWS

Mr. Ruckelshaus' public statements indicate that his philosophy of pollution control differs in significant respects from the philosophy embodied in the nation's environmental laws, from the views of the American people, and from the positions taken by this Committee in the last session of Congress.

These views do not necessarily disqualify him from serving as EPA Administrator -- the President is entitled to appointees who share his philosophical outlook. But they do suggest it is important for the Committee to satisfy itself that he will be guided by the laws, not his personal views, where the two conflict. They also suggest the Committee should know whether Mr. Ruckelshaus plans to request major structural changes in the laws to accord with his personal views.

Mr. Ruckelshaus has expressed himself on a number of the most basic issues of pollution control policy in the past few years, including the proper objectives of the nation's pollution control programs, the means of establishing these objectives, the regulatory means to attain them, and the degree of authority which the Congress should delegate to the Administrator of EPA. In each of these areas, his views differ markedly from the policies embodied in the laws.

Objectives of the Pollution Control Laws. Mr. Ruckelshaus seems also to take a narrower view than Congress of what the environmental laws should accomplish. In an article written in 1980, Mr. Ruckelshaus opposed using pollution controls to protect any environmental values except health:

> "It makes no sense, for example, to impose certain air pollution technological requirements where there is no current health problem associated with pollution. Nor is there any reason to impose these requirements on an area where adding new pollutants to the air isn't going to create a health problem."*

This statement suggests that he does not believe new sources of pollution locating in areas with clean air resources should be required to install best available pollution control technology. But he also opposes using air quality constraints on the growth of pollution in most presently clean areas. As Administrator, he refused to require States to prevent significant deterioration of air quality in these areas. Since then, he has supported radical proposals to eliminate the air quality budgets of the PSD program.**

---

* Article by Mr. Ruckelshaus in Industrial Development, (September/October, 1980).

** In letters to various members of Congress, Ruckelshaus supported H.R. 5252, which would have eliminated the PSD air quality budgets everywhere except in the larger, older National Parks and Wilderness areas, as "the proper approach for amending the Clean Air Act."

These views suggest little recognition of the value of preserving what remains of our unpolluted skies. They also suggest that Congress should satisfy itself that Mr. Ruckelshaus' personal views will not prevent him from carrying out the programs Congress has enacted to protect these clean air resources.

Views of Health Standards. Mr. Ruckelshaus also disagrees with Congress' conclusion that the protection of public health should be the policy objective of the Clean Air Act. While he agrees that public health protection is important, he takes the position that the basic health standards of the law should be compromised by economic considerations.

For more than a decade, Congress has taken a different position. Health standards which establish the objectives of the law, should be based on health evidence alone. The costs of achieving the standards are to be taken into account in Congress' decisions about the pace and manner of implementing these laws, but they are not permitted to compromise the health objectives of the law.

Mr. Ruckelshaus apparently believes Congress has been irresponsible in adopting this method of approaching the goal of health protection. In a letter to Vice President Bush in January, 1981, he said that

> "The Congress' failure to master the details of these laws is at the heart of the problem regarding our efforts to protect public health, safety and environment of our country and its people."*

---

* Letter to Vice President George Bush, January 30, 1981, page 1.

In a later letter to the Vice President, he faulted Congress for placing first priority in the pollution laws on protecting public health and the environment: "attempting to cope with air pollution by using health or environmental effects as the sole determinant of national policy is inherently irrational."*

Instead, he would give an unelected bureaucrat (himself if he is confirmed) the power to determine how much health protection is worth to the American people. Before this Committee in 1981, he said

> "The Administrator of EPA must be given sufficient flexibility to devise a strategy for coping with air pollution which properly balances our desire for healthy air with our economic and energy conerns."**

In his letter to the Vice President, he admitted that this proposal posed the "rhetorical difficulty of advancing an argument that appears to place profit over public health,"*** but he said that he did not "believe it is possible to tinker with or 'fine tune' the regulatory program and make any real progress."****

The Means to Achieve Cleaner Air and Water. Mr. Ruckelshaus opposes the use of technology standards as a means to achieve cleaner air and water. In 1977 he argued for allowing exceptions to the "Best Available Technology" ("BAT") requirements of the

---

* Letter to Vice President George Bush, June 18, 1981, page 3.

** Senate Testimony, April 9, 1981.

*** Letter to Vice President George Bush, June 18, 1981, page 2.

**** Ibid., page 3.

Clean Water Act based on the water's capacity to dilute effluents.* While he was in charge of Weyerhauser's legal department the company succeeded in overturning EPA's "Best Practicable Treatment" ("BPT") interim technological standards on the grounds that they failed to take into account the ocean's ability to dilute or "naturally treat" effluents.

As EPA Administrator in 1971, Mr. Ruckelshaus told this Committee it should adopt a federal water pollution law that included uniform federal technology standards. Uniform technology requirements were necessary, he said, because otherwise "there will be a disparity of treatment across the country unless we can set a base level for effluent treatment at the federal level."** But by 1977, he dismissed this reasoning with a wave of the hand.***

He also refused to acknowledge that uniform technology standards are an enforcement necessity so long as many large regulated industries insist on obstructing and contesting pollution control requirements at every turn. He derided this considered Congressional view as "keeping the whole country in after school because we can't take the trouble to find the problem child."*

---

* Testimony before the House Comm. on Public Works and Transportation on Proposed Amendments to the Clean Water Act, (Sept., 1977) at pages 177-79. He took the same position with respect to the BACT requirement of the Clean Air Act in 1980, arguing that where the air was not dirty enough to threaten health BACT should not apply. See page 8, below.

** Testimony on Proposed Federal Water Pollution Control Legislation before the Senate Comm. on Public Works (March, 1971).

*** Testimony on Proposed Amendments to the Federal Water Pollution Control Act before the House Committee on Public Works (Sept. 15, 1977), 177-79.

Pattern of Support for the Less Environmentally Protective of Policy Alternatives. Whatever the philosophy articulated by a public official, the philosophy that matters is embodied in the pattern of his actions. Former Attorney General John Mitchell said prophetically, "Watch what we do, not what we say." More recently, Mrs. Burford has taught the wisdom of this as she continued to claim she could do more with less.

Disturbingly, the record suggests that, offered alternatives, Mr. Ruckelshaus often finds reasons to support the policies that provide less protection for public health and the environment:

- o When Congress considers uniform technology requirements, he opposes them as bearing no relation to the objective of protecting environmental quality.
- o When faced with technology requirements, he supports weak ones -- e.g.,
    - o As chief legal officer of Weyerhauser, he asked the courts to instruct EPA to set "Best Practicable Control Technology' ("BPT") water pollution standards for paper mills based on the average, rather than the best, performing paper mills.**
    - o As EPA Administrator, he allowed new western coal fired power plants to avoid altogehter technological controls for sulfur oxide air pollution.

---

* Ibid, p. 178.

** The federal courts rejected this request as inconsistent with the Clean Water Act. Weyerhauser v. Train, 543 F.2d 328 (D.C. Cir. 1976).

  - Through the American Paper Institute he urged Congress to weaken the "Best Available Control Technology" air pollution control requirement that applies to any new plant in a clean area.
  - Through API, he also supported the industry position against requiring state-of-the-art air pollution control technology in polluted areas.
- He supports air quality-related regulation in principle, but urges weak versions of it in practice:
  - He proposes diluting the health basis of federal air quality standards with economic and energy considerations.
  - He opposes limiting air quality deterioration in unpolluted areas.
  - He sees nothing wrong with meeting local air quality goals by broadcasting the problem further away through smokestacks as tall as the Empire State Building.

Authority Delegated to the Administrator. In passing most of the laws EPA administers, Congress has placed relatively specific limits on the Administrator's policymaking discretion. This approach makes particularly good sense in environmental policy, where the diffuse interests of ordinary citizens and voters are so often at odds with the concentrated economic power of major industries.

Specific instructions mean the courts can police the Administrator's exercise of his or her discretion. And they mean that EPA can make broad policy changes only with the concurrence of elected officials.

The wisdom of this approach has been demonstrated amply in the past two years, when Mrs. Burford sought single-handedly to substitute policies urged by regulated industries for the environmental policies adopted by Congress over a decade.

But Mr. Ruckelshaus apparently doubts this wisdom. In the years since he was Administrator, he has often decried what he characterized as Congress' "lack of trust" of the Executive branch. Given the abuses of executive power he has seen in his career, his support for placing even more power in the hands of the executive branch seems strange. But he has repeatedly urged fewer checks on the power of the EPA Administrator.

In 1973, towards the end of his tenure as Administrator, he suggested to Business Week that he wanted more "flexibility" to deal with the social dislocations" caused by clean air standards. He also called for flexibility to adjust the pace at which standards are achieved.

More recently, commenting on the Clean Water Act, he suggested replacing the current generic technology requirements with a case-by-case review based on cost and benefit analysis.

In 1981, Mr. Ruckelshaus said that the Administrator must be given flexibility to develop clean air strategies which "properly balance our desire for healthy air with our economic and energy concerns."

And, in an Industry Week interview, he said that the EPA Administrator ought to have "the right to be final" in making his judgments. Apparently he feels that at least some of the Administrator's decisions should not be subject to court review, or should be subject to only limited review. If so, he supports giving the Administrator of EPA powers unprecedented in any other agency of our government.

His desire for final authority may have been formed by his own experience as Administrator. For the courts and the Congress often found his decisions fell short of the protection of public health and the environment required by law and demanded by Americans. The following are examples:

- His decision to approve State proposals to allow polluters to disperse pollution through huge smokestacks and so-called "intermittent controls" instead of cleaning up was rejected by three different United States Courts of Appeals as violating the Clean Air Act.
- His decision to permit the "graying of America" by allowing the degradation of high quality air resources over National Parks and elsewhere was rejected by the courts as inconsistent with the Clean Air Act. At the time, Mr. Ruckelshaus defended his decision on the grounds that Congress had been insufficiently explicit in its instructions to him. Congress later was forced to enact a detailed code on the Prevention of Significant Deterioration ("PSD") which industrial groups such as the American Paper Institute then attacked for their purported "inflexibility."
- His impoundment of federal funds to construct sewage treatment facilities was held inconsistent with federal law by the United States Supreme Court.
- His decision not to proceed expeditiously under the Federal Water Pollution Control Act to establish effluent standards for toxic water pollutants was later recinded by his successor in order to avoid an adverse decision in the federal courts. Congress later wrote the "toxics consent decree" into the Clean Water Act, and was attacked by industry groups for curbing EPA's "flexibility."

To recount these incidents is not to impugn Mr. Ruckelshaus' good faith. But it does suggest that if, as Mr. Ruckelshaus says, the environmental laws reflect Congress' distrust that the public interest will be fully protected in the administrative process, the Congress may have very good reason.

II. INDEPENDENCE FROM POLITICAL INTERFERENCE

The sense that decisions at EPA were no longer being made on the merits had a great deal to do with the departure of Mr. Ruckelshaus' predecessor. To be confirmed, he should commit himself to freeing EPA from political influence exercised outside the public eye by agencies such as the White House Office of Management and Budget.

Mr. Ruckelshaus has said that "The highest morality in a free society is the morality of process."* He has also said that public decisions should not be made in a way that would not be embarrassing if they were "on billboards as you come into town."**

If confirmed, he faces a situation that mocks these principles of open government. Under Executive Order 12291, the Office of Management and Budget routinely reviews outside regular procedures all regulations EPA is considering -- before the public receives any notice, after public comment has closed, or any other time. Moreover, OMB can -- and has -- simply bottled up proposals indefinitely or refused to let EPA proceed. No record is kept, no public reasons given, no process exists to be sure all sides are heard.

This legally hazy review provides an ideal conduit for the application of illegitimate political pressures. If Mr. Ruckelshaus is serious about the "morality of process," he cannot tolerate the kind of OMB interference in EPA's business that has become routine in the Reagan Administration.

---

* Interview, 191 Science Magazine 361, 362 (Jan. 30, 1976).

** Confirmation hearing on Nomination to be Deputy Attorney General (Sept. 12, 1973).

His record in his previous term as Administrator indicates that preserving the integrity of process against OMB and White House interference did not at that time occupy quite the exalted position suggested by the term "highest morality."

During Ruckelshaus' tenure as Administrator there was also a system of political review of environmental health and safety regulations, coordinated through the Office of Management and Budget, known as the "Quality of Life Review."

This review process also gave special access to political criticism of EPA regulations outside the normal public procedures -- though at that time OMB did not have the effective veto power President Reagan has provided. As a formal matter, only other government agencies were represented in the meetings called by OMB under the Quality of Life Review. But one of the most persistent of EPA's critics was the Department of Commerce, which under Secretary Maurice Stans relayed the criticisms of an entity known as the "National Industrial Pollution Control Council," a government-established advisory board consisting of the major polluting industries.

In 1972 the Senate Committee called special hearings to investigate charges that EPA regulations outlining the requirements for the initial State air pollution programs had been drastically weakened through the Quality of Life Review, and that OMB was planning to review State programs individually. Ruckelshaus maintained that he made all the final decisions, but the evidence presented to the Committee showed conclusively that EPA's final regulations reflected abrupt weakening of regulations undertaken after secret review conducted after the close of the public comment period.

The real issue in 1972, as in 1983, was how special political access shaped the final decision, not who formally made it. This point was made by Ruckelshaus' own General Counsel in recounting the 1972 hearings in a book:

> "[I]n the complex operations of a government bureaucracy the final decision often is not the most important one."
>
> "The establishment by OMB of procedures to review proposed EPA regulations, therefore, gave it an important influence over EPA's policies, even though Ruckelshaus retained control of the final decisions. That intervention by OMB reflected political pressures quietly exerting their force against the strong environmental requirements."*
>
> "The new system created uncertainty over whether EPA or OMB was really in control of the major decisions concerning the content of our regulations.**

EPA under Ruckelshaus acceded to more direct appeals from the White House on behalf of industry also. According to testimony presented in the 1972 Senate hearings, EPA withdrew support for 90 percent control of the immense emissions of sulfur oxides from copper, lead and zinc smelters after the Chairman of the Board of the Anaconda Company complained to Ruckelshaus and met with the White House staff. (Smelters are the largest source of sulfur dioxide pollution in the West. Copper smelters were identified in reports prepared for the National Commission on Air

---

* Quarles, "Cleaning Up America," (1976) page 88.

** Quarles, page 118.

Quality in 1979 as a major source of visibility degradation in the Southwest. They also are responsible for hundreds of violations of health standards in smelter communities where they are located.)

As a consequence of White House intervention, two EPA reports indicating that 90 percent control could be achieved for a 3-4 cent per pound increase in the price of copper were withdrawn. Testimony to this effect by one EPA official before Montana State authorities was repudiated by directive from Washington; another official was recalled from Reno, Nevada just before testifying on the grounds that his statement was not cleared by headquarters.*

EPA's sudden reversal drastically slowed efforts to clean up smelter pollution. The smelting industry still has not achieved 90 percent pollution control at most of its plants.

We believe you should not confirm anyone to be Administrator of EPA who can be subjected to political direction from the White House.

Nor do we believe you should accept generalities from the Administration or Mr. Ruckelshaus about the "free hand" he will have in running the Agency. In 1973, according to his then General Counsel, William Ruckelshaus accepted an oral Presidential promise to end the Quality of Life Review. But the promise was not kept.

---

* Testimony of Professor William Rodgers in Hearings before the Senate Committee on Public Works, Subcommittee on Air & Water Pollution (1972), pages 131-166.

For this reason we think you should thoroughly satisfy yourselves that OMB will not continue to wield power over environmental policymaking.

Executive Order 12291 provides that the Director of OMB may "exempt any class or category of regulations from any or all requirements of this Order." It also provides that where statutory or judicial deadlines conflict with OMB review, the Administrator may decide not to undergo that review.

We believe you should receive a commitment in writing from Mr. Stockman that exempts EPA regulations from his review before confirming Mr. Ruckelshaus.

OMB is a budget and management agency. It is not qualified by knowledge or process to make environmental policy. Unless it agrees to forswear its involvement in EPA's decision-making, you cannot be assured that unwarranted political interference will not continue at EPA.

III. COMMITMENTS FOR CHANGE

The Reagan Administration, with Anne Burford at EPA and James Watt at the Interior Department, gravely miscalculated their mandate in 1981. Together they undertook a crusade against environmental regulation which severely damaged EPA's budget, performance and ultimately, reputation.

In the process they stretched every law they could to fit their antiregulatory bias. And, as courts are beginning to affirm, they stretched some laws past the breaking point.

Mrs. Burford is gone, testimony to the strength of the bipartisan environmental consensus in America. But the Administration's crusade continues. And the most difficult challenge the next EPA Administrator will face is redirecting Reagan environmental policy back to the political mainstream in the face of continuing pressure from regulated industries for weaker standards, weaker laws, which produce more risks to public health and welfare.

Given the doubts I have expressed here today, I urge the committee to be more specific than it might usually be in a hearing of this sort in seeking commitments from Mr. Ruckelshaus to return EPA to the rule of law.

The breadth of the Administration's attack touches virtually every aspect of environmental regulation. I will discuss only those issues which are most urgent, most sweeping or most symbolic. Where decisions or commitments have already been made, I urge you to ask Mr. Ruckelshaus to re-examine them, measuring them against the intent of Congress in the laws. Where decisions are pending, I hope you will make certain Mr. Ruckelshaus understands your concern that the laws be faithfully executed. And I hope you will seek a commitment from Mr. Ruckelshaus to honor all the laws as written, until and unless Congress changes them.

If only appearances change while the policies of weak standards, meek enforcement and budget attrition at EPA continue, the country will have lost an important opportunity to begin the long job of repairing the government's environmental apparatus.

After two years of environmental retreat officially described as "progress," words will mean little. Only action will be credible.

Budget

First, Mr. Ruckelshaus must seek more money for his agency. The EPA operating budget was $1.35 billion in 1981. The Reagan Administration has proposed to cut it to $948 million, more than 40 percent in constant dollars. EPA is collapsing under its workload. More than 90 percent of all regulatory actions are either behind schedule, suspended, or postponed. Research programs have been so decimated that efforts to control pollution will be hampered for years by the lack of reliable data.

We urge you to seek his commitment to produce a broad supplemental appropriation for FY 1983 and a FY 1984 appropriation that would at least return EPA to the minimal FY 1981 level ($1.35 billion), still a cut in real terms because of inflation and increased agency responsibilities. The House has already adopted that level in its budget resolution.

Personnel

Mr. Ruckelshaus should clean house and assemble a new team of top political appointees without White House interference. He will need loyal assistants more than "continuity" with discredited policies. They should be qualified by competence and experience, not ideology.

Clean Air Act

We hope on of Mr. Ruckelshaus' first policy decisions will be to retract his support for Clean Air Act amendments along the lines of H.R. 5252. This collection of special pleadings is a symbol of the old EPA's enthusiasum for the industry line, no matter how shopworn. It has little support on Capitol Hill. Advocacy of responsible clean air legislation would serve the new Administrator well as the signal of a renewed concern for environmental protection.

Acid Rain

We hope you will seek his commitment to develop a genuine acid rain control program and offer the leadership necessary to see it enacted. The Reagan Administration has no acid rain policy other than indefinite delay. Its lack of action in the face of formal international agreement and its meddling in the development of scientific data are scandalous.

The National Academy of Sciences and the National Commission on Air Quality have recommended a substantial reduction in current sulphur emissions to combat acid rain. Instead, during the past two years, EPA has approved regulatory changes that authorize a 1.8 million tons per year increase in allowable sulphur dioxide emissions.

Health Standards

Mr. Ruckelshaus should retain the air quality standard for carbon monoxide and strengthen the standard for particulate matter. The agency is now considering substantially weakening the health and welfare standards for carbon monoxide and particulate matter. No change is warranted in the CO standard. The particulate matter standard needs to be strengthened in order to protect public health and welfare; The agency's own analyses show a serious risk of hundreds of extra deaths and thousands of extra illnesses each year unless the standard is strengthened.

Toxic Air Pollution

In terms of actual human exposure to toxic pollutants, there may be greater exposures occurring every day through the air than from toxic waste dumps or toxic water pollution. Controlling airborne toxics is a tough job given the intensity of chemical industrial lobbying. The last Administration struggled with a comprehensive policy and actually proposed several regulations by January 1981. The Reagan Administration has not moved one step further. Neither the "air cancer policy" nor specific regulations have been put into effect, and the program has languished despite two court orders requiring EPA to move ahead to protect public health. You should seek a commitment that Mr. Ruckelshaus will issue regulations for at least eight toxic air pollutants and define a general air cancer policy.

Motor Vehicle Emission Standards

Mrs. Burford proposed to weaken or delay emission standards for gasoline-powered trucks and diesel-powered cars. She took no action to establish the overdue particulate standards for diesel trucks. Standards are absolutely necessary to spur the development and introduction of control technology. We urge you to seek issuance of the needed standards promptly.

Emissions Trading

The "bubble" concept has been advanced as a way of accomplishing the pollution-reducing requirements of the Clean Air Act more cheaply. Unfortunately, the previous Administrator turned the bubble into a vehicle for evading these requirements. In addition, careless review of specific bubble applications has allowed gross discrepancies in basic emission calculations to slip through. The bubble concept is in danger of being permanently tainted; it needs to be administered consistently with the law.

New Source Review

Careful review of large new facilities is an essential part of protecting air quality. However, the previous Administrator agreed with industry to propose nearly two dozen regulatory changes that would emasculate new source review. The first change involved a misuse of the bubble concept and has been struck down by the courts. Another pending proposal calls for ignoring "fugitive" emissions totally, even though they comprise up to 90% of the emissions from refineries, for example. Most of these proposals have yet to be issued formally. They should be abandoned.

Noncompliance Penalties

In January, the U.S. Court of Appeals for the District of Columbia upheld the agency's noncompliance penalty rules in all major respects. The court observed that the implementation of this important program was years overdue. On April 15 the court issued a show cause order preliminary to enjoining EPA to carry out these regulations within 60 days. We urge the committee to seek full implementation immediately.

SIP Review

EPA's careful review of State Implementation Plan changes is an essential part of the agency's role as guarantor of the Clean Air Act process. Unless each state has confidence that its neighbors will "play by the rules," the process will break down. But in the past two years, SIP review by EPA has become a rubber stamp. We support useful streamlining of SIP review. We hope Mr. Ruckelshaus will agree to restore the probing, careful look at SIP changes on which the process depends and to budget the resources necessary to do so.

The Clean Water Act

Last year, EPA proposed legislation that would have delayed and undermined the Clean Water Act's provisions for controlling industry's toxic pollutant discharges. Among other things, the proposal would have weakened the national pretreatment program, delayed the BAT compliance period beyond the time sources legitimately need, and extended the life of permits to ten years, effectively immunizing sources from more stringent requirements for a decade. Moreover, the proposal failed to address critical issues: sludge disposal, non-point source controls, and second-round toxics standards.

We understand that the Administration plans to propose similar amendments this year. Mr. Ruckelshaus should reverse this decision, shape a more constructive proposal, and in so doing, shorten what promises to be a long, controversial and perhaps partisan debate on the Clean Water Act.

Water Quality Standards

In recent hearings before Senator Chafee's Subcommittee, EPA's proposal to revise regulations on water quality standards received the strongest opposition and criticism from members of any Clean Water Act initiative in recent years. Senate and House leaders have issued a formal request to EPA for withdrawal of the proposal, and Senators Chafee and Randolph have introduced legislation to block it. We and many others, including many states, are on record opposing the EPA proposal. We urge you to ask Mr. Ruckelshaus to withdraw this proposal and review it carefully.

Pretreatment

In the past two years, EPA has tried repeatedly to weaken pretreatment requirements which prevent industries from dumping toxic wastes in municipal sewage plants incapable of handling the wastes. EPA first suspended general program regulations, a decision later reversed by the U.S. Court of Appeals for the Third Circuit. Next EPA proposed "national removal credits" which would have given roughly half the municipal plants covered by the program unwarranted authority to relax industrial discharge limits. Finally, EPA proposed amendments to the law which would have gutted the program. We hope you will encourage Mr. Ruckelshaus to abandon efforts to dismantle this program and, instead, to spend EPA resources on vigorous enforcement of existing requirements.

Municipal Sludge

The Clean Water Act required EPA to develop comprehensive municipal sludge disposal regulations by 1978. Thus far, EPA's land application regulations only establish limits for cadmium and PCBs, even though many toxic pollutants have been repeatedly detected in municipal sludge samples. EPA has likewise failed to issue regulations for marketing and distribution of contaminated sludge, although this practice continues uncontrolled in most states. We urge Mr. Ruckelshaus to issue regulations which protect public health and the environment from unsafe sludge disposal practices

BAT Effluent Guidelines

The most important component of EPA's BAT-toxics program is the recently proposed regulation governing the organic chemicals and plastics industry. This category alone accounts for more than 80% of the toxic organics discharged by all of industry into sewers and waterways. The regulation was proposed at the end of February, and must be promulgated by March 1984.

The proposal is grossly inadequate. It fails to address even half of the toxic organics discharged in significant concentrations. Moreover, the proposed limitations are as much as ten times less stringent than those in several Superfund settlements and in permits being negotiated by the State of New York for plants along the Niagara River, thereby undercutting enforcement and permitting programs and antagonizing the Canadian government.

Mr. Ruckelshaus should allocate the resources needed to develop a sound data base for this regulation and to develop limiations that reflect the best available technologies.

Superfund

The next Administrator should speed up spending from the Superfund. The money has already been raised through a tax on chemical producers and oil refiners. The fund was created to deal with a potent public health menace, the improper handling and disposal of chemical poisons. Responsibility for management of this "Superfund" was assigned to EPA, together with strong authority to go to court to compel cleanup of abandoned dumps by those responsible for creating them.

EPA has identified 418 of the most dangerous dumps and there may be thousands more which will also require cleanup. But after more than two years EPA has initiated comprehensive studies of only 32 waste sites, and filed only one new Superfund case in court. EPA has replaced litigation with private negotiations with industry and hostility to public participation in their decisions.

We hope Mr. Ruckelshaus will make a commitment to spend enough to assure that comprehensive cleanup studies for all 418 priority sites will be completed and cleanup begun at most sites by December 1985. EPA also should insure full participation in cleanup decisions by affected members of the public.

Controlling Active Hazardous Waste Facilities

Mr. Ruckelshaus should be encouraged to develop a sound program for assuring that active hazardous waste facilities are properly managed. United States industries generate more than 90 billion pounds of hazardous wastes each year; only 20 percent is destroyed or detoxified. The rest is stored or dumped, mostly on land. Regulations to control operation of land disposal facilities have been delayed; those that have been issued are grossly inadequate (existing facilities are not required to be lined to prevent or minimize groundwater contamination); inspection and enforcement have been crippled by budget cuts. Those facilities that stopped accepting waste by January 26, 1983, do not have to clean up contamination that they have caused. The burning of hazardous waste in boilers is unregulated. No rules even exist to regulate the disposal of such substances as dioxin.

Mr. Ruckelshaus should move quickly to plug gaps in existing regulations. All hazardous waste must be brought under control. In addition, the Administrator must restrict certain wastes from land disposal and require the use of alternative technologies.

Groundwater and Drinking Water

Current EPA regulations under the Safe Drinking Water Act and Resource Conservation and Recovery Act (RCRA) allow hazardous wastes to be disposed of directly into or above aquifers that are sources of drinking water by underground injection to "class IV" wells. EPA deemed this practice to be "inherently unsafe" due to the likelihood of contaminating groundwater irreversibly, but nonetheless failed to prohibit it. In view of the threat to our dwindling groundwater sources of drinking water, we urge Mr.

Ruckelshaus to ban this method of hazardous waste disposal, to undertake a comprehensive inventory of class IV wells nationwide, and to initiate enforcement action when necessary to ensure the closure of all class IV wells.

"Lifetime" Permits

EPA has proposed to grant "lifetime" permits to all hazardous waste facilities, the vast majority of which are existing landfills. This proposal would prevent EPA from correcting unsafe landfills, thus creating future groundwater contamination sites. The agency should withdraw its lifetime permit proposal and hold fast to current regulations which set a maximum ten-year permit term.

Pesticides

In March 1982, Administrator Gorsuch announced a new policy for reaching decisions on pesticides. EPA and industry would participate in closed door "decision conferences" on such matters as: pesticide registration standards, data evaluation reviews, and determining whether certain already registered pesticides suspected of causing cancer, birth defects, nerve damage or other maladies should be subjected to intensive scientific review ("the rebuttable presumption against registration" or "RPAR"). Under this policy, decisions have been reached to avoid adequate restrictions on a host of controversial pesticide chemicals suspected of causing health hazards, including termethrin, benomyl, EDB, EDBC and pentachlorophenol.

These procedures violate the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Federal Advisory Committee Act, and the Administrative Procedures Act. We hope that Mr. Ruckelshaus will terminate the practice of holding "decision conferences" and immediately reexamine all decisions that have been reached in this manner.

Registration

In 1972 Congress required EPA to reregister -- that is, reevaluate -- the nearly 600 previously registered chemicals which had never been sufficiently examined to determine if they cause cancer, birth defects, genetic mutations or other maladies. These chemicals are the active ingredients in a vast majority of pesticides sold in the United States today. Virtually none have been reregistered in the eleven years following this Congressional mandate. According to a recent House report, 79% to 84% have never been adequately examined for their capacity to cause cancer; 90% to 93% have not been examined using current scientific protocol to determine whether they cause genetic mutation; and 60% to 70% have never been sufficiently examined as to their teratogenicity. The program has become a national disgrace. EPA should set specific deadlines for reregistering these chemicals within the next five years.

Loopholes For Registering Chemicals

In the past few years, "back door" registrations at EPA through "emergency," "special local needs," and "conditional registrations" have skyrocketed. For example, between 1978 and 1982, emergency exemptions increased 430%. In 1980, 39% of all emergency exemption requests were not granted; in 1982 the number was 7%. These loopholes have been used by the chemical industry and EPA to avoid the stringent health and safety tests required in normal §3 registrations. We hope Mr. Ruckelshaus will immediately move to close the "back door" route to registration.

Restrictions on Public Access

In 1978, Congress specifically gave the public a right to obtain industry-generated pesticide registration data. Four years later, we are only barely beginning to obtain such data -- and only as a result of litigation. EPA has unilaterally imposed severe restrictions on how such data could be disseminated by including a series of purported "warnings" on its forms sent to members of the public requesting data. Both this form and agency regulations now being prepared should make clear that pesticide health and safety data can be widely disseminated, especially when sought to facilitate peer review of pesticide data within the scientific community.

Safe Drinking Water

To date, EPA has detected 22 carcinogens and many other chemicals known to be mutagenic or otherwise toxic in drinking water supplies. In 1978 EPA recognized that synthetic organic chemicals in drinking water posed a serious public health hazard and warranted regulation. Subsequent research and monitoring fully support that conclusion. To date EPA has not proposed standards for these commonly present organic chemicals. We urge you to seek a commitment to issue standards immediately for the major contaminants in drinking water and, in doing so, to account for the possibility of synergistic interaction between the many different synthetic organic chemicals.

A Health-Protective Cancer Policy

Recently EPA departed from its established cancer policy and informally adopted significantly less protective principles for cancer risk identification and assessment. As a result, the carcinogen formaldehyde and pesticides such as termethrin and benomyl have been the subject of agency decisions that have discounted the carcinogenicity data and have accepted a higher risk of human cancer than the agency has hitherto tolerated. This departure from established cancer policy has been sharply criticized by the scientific and public health community.

The new Administrator must return to the policy of giving human health, not toxic chemicals, the benefit of the doubt. The Reagan Administration program for regulating toxic substances and carcinogens is based on the belief that lower costs to industry are worth the tradeoff in increased risk to human health. It will certainly lead to more cancers, although no one can say exactly where or when. EPA now regards as acceptable cancer risks 100 times higher than would have been deemed acceptable under previous Administrations. It has decided not to regulate specific substances after extensive closed-door negotiations with the chemical industry. It has proposed exempting 50% of new chemicals from the safety review required by the Toxic Substances Control Act (TSCA). It has replaced statutorily required testing of potentially high risk chemicals with open-ended, nonenforceable "voluntary" testing programs. The United States was a leader on international chemical product safety reviews. Now it opposes the moderate policy of the European Common Market countries.

The assumptions underlying the toxics program have been turned upside-down. Instead of acting to protect the public from potential hazards unless the manufacturer of a chemical can prove that it is safe EPA now assumes that a product is safe unless there is compelling evidence that it is not.

Mr. Ruckelshaus must reinstate a protective policy, develop a list of and a timetable for reviewing hazardous chemicals, institute enforceable deadlines and require and police good laboratory practices for chemical testing, eliminate wholesale exemptions from premanufacture requirements, and support reasonable international approaches to control.

OMB "Risk Management" Group on Carcinogens

Mr. Ruckelshaus also should guarantee that he, not the Office of Management and Budget, will make decisions on the regulation of toxic chemicals. Recently OMB established a "risk management group" to review EPA's and other agencies' regulations to curb exposure to carcinogens. According to OMB sources quoted in press accounts, this group is charged with determining "allowable risks for society." OMB is acting apparently in complete disregard of the fact that (1) Congress, not OMB determines how to regulate carcinogens in the Nation's public health and environmental laws, and (2) Congress has assigned the decision-making task to EPA and the other agencies, not to OMB. Mr. Ruckelshaus should be asked for a commitment that he, not OMB, will make these decisions, and that he will do so in accordance with the laws, not the preferences of OMB.

International Leadership

During the 1970's, beginning when Mr. Ruckelshaus previously headed EPA, the United States was the world leader in addressing international environmental problems. However, over the last two years, EPA has been a destructive force on the international environmental scene. EPA's International Office has undermined interagency efforts to address these problems through the Global Issues Working Group, and urged that the U.S. pressure the OECD to drop its work in this area. The Office should be vigorously redirected so that EPA once again is a force for U.S. leadership on these vital issues.

Ozone Layer

EPA has recently ignored its responsibilities to protect the public health and welfare from depletion of the ozone layer in the stratosphere. In October 1980, EPA issued an Advance Notice of Proposed Rulemaking recommending a cap on production of chlorofluorocarbons. EPA warned of increased incidence of skin cancers and disruption of agriculture and marine ecosystems from the increased ultraviolet radiation accompanying ozone depletion. Long ago, agency officials told us that EPA would await the results of a report from the National Academy of Sciences before taking regulatory action. The NAS reported more than a year ago, but the Agency has still said nothing.

Section 157 of the Clean Air Act requires that the Administrator regulate any chemical or activity that "in his judgment, may reasonably be anticipated to affect the stratosphere" with resultant effects on public health or welfare. NRDC is now preparing a formal notice of intent to file suit for failure to comply with this requirement. We urge Mr. Ruckelshaus to address this important problem by initiating rulemaking to effect the cap on production recommended in 1980.

Toxic Substance Export

In June 1981, the Chemical Manufacturers Association ("CMA") petitioned EPA to weaken regulations requiring exporters of banned or regulated toxic chemicals to notify the government of the foreign country which is to receive the export. NRDC filed a detailed memorandum in opposition, showing that CMA's proposal was both a patent violation of Section 12(b) of the Toxic Substances Control Act and unnecessary. The existing regulations, which CMA had helped to develop, are reasonably drafted to achieve the purposes of the law without undue burden on exporters.

Although EPA has apparently decided to reject the petition, it has thus far failed to finalize this action. It should do so quickly in order to relieve uncertainty about the legal obligation for export notification and to reaffirm the U.S. commitment to be a responsible exporter.

* * *

President Reagan has charged that Mrs. Burford was unfairly driven from office for doing no more than carrying out his policies. If that is so, it is time that he changed his policies for they are endangering the health and safety of Americans. EPA's actions over the past two years flout both the requirements of law and the strongly expressed will of the American people.

The measures we have suggested in the foregoing paragraphs are but a portion of EPA's responsibilities. But they are critical items on a long EPA agenda. If Mr. Ruckelshaus attacks this agenda with determination and good faith he will accomplish a great deal and give the country a strong signal that the tides have changed at EPA.

TESTIMONY FROM: Marilyn Stanton, Member of the Spokane
County Air Pollution Control Board (SCAPCA)
Former City Councilwoman (1976-1980)
Associate Professor of Biology,
GONZAGA UNIVERSITY.

SCAPCA requests that the Senate Committee ask Mr. Rukelshaus to pledge that:

#I. In the future EPA will use only replicated scientific studies in setting National Clean Air Standards. (We are especially concerned with Carbon Monoxide Standards.)

#II. Until the Aronow and Anderson angina/CO studies are replicated in a truly scientific manner that the sanctions be withheld from the many cities and counties that are presently unable to attain the EPA's strict CO standards.

No Scientific study can be considered truly established as valid until other independent groups have duplicated its results.

#III. That if a true "health hazard" exists with the present 9 ppm/8 hr. CO standard, then no "forgiveness" to cities and counties be allowed. If we have a true health emergency then automobile travel in the non-attainment areas should be restricted to emergency vehicles -- now.

SUPPORTING FACTS:

#1. The EPA's 1970 Standards for carbon monoxide (CO) were 5 times more strict than those of OSHA in 1970. This is because the EPA used unreplicated studies which they quietly discarded in the mid 1970's. The EPA has not told the media about this incredible mistake.

OSHA's 8-hour-CO Standard for air INSIDE factories is 50 ppm; the EPA's 8-hour-CO Standard for air OUTSIDE factories is 9 ppm. Moreover OSHA has had no complaints from workers .. not even "sensitives" such as people with heart and/or lung problems, or pregnant women.

Also, SCAPA charges that the EPA has manipulated the supporting evidence for the 9ppm/8hr. CO-National Standard (Fed. Reg. August 18, 1980, pp. 55066-55083) by:

A. Citing the 1971 (out-dated) National Academy of Science - Guide VI - Carbon Monoxide, which supports EPA positions, and not citing the current 1975 NAS Study which downplays the importance of the angina studies (P. 179 - 183) and calls for more experiments and says (P.186):

> "THERE IS A NEED FOR REPLICATION OF STUDIES BY OTHER LABORATORIES."

B. Incorrectly reporting the methodology used by Anderson et al. The EPA claims that Anderson administered the CO to his patients "intermittently" and that's why his COHb levels are so low. We have letters from Dr. Anderson and his co-authors that state that their CO was given continuously. Did the EPA hope that this change in wording would make the Anderson data support Aronow better?

C. Separating the two parts of the Anderson study so it would be difficult to note that Anderson's patients exercised as well at 100 ppm as they did at 50 ppm.

D. Deleting the 1971 Aronow Study, which was approved in the 1979 CRITERIA DOCUMENT for CO, because Aronow's patients exercised very well even with their COHb as high as 8% (as compared to the 1981 study where patients had difficulties at only 2% COHb).

E. By not adding the 1980 Aronow study on angina. Is this omission due to the fact that the EPA noted that there was a "miraculous" correlation between the Aronow 1973 and 1980 and 1981 studies?

(See Regression graphs plotting increase in COHb % against decrease in exercise time.)

The EPA is trying to "pick and choose" only those Aronow studies which best fit their purposes.

#II. The EPA's proposed 1983 CO-Standards are once again based on unreplicated studies (Dr. Aronow and Dr. Anderson). Dr. Anderson agrees with SCAPCA (Spokesman-Review article of April 14, 1983) that both his work and that of Dr. Aronow should be duplicated by other scientific groups before the data is used to set national standards.

On the other hand, Dr. Aronow and the EPA have ignored all SCAPCA's requests for replication of the CO/angina studies. SCAPCA has made these requests on several occasions: October 1980; November 1980; September, 1981; August, 1982; and by telephone April, 1983.

On March 23, 1983 the WASHINGTON POST carried a lengthy article concerning Dr. Aronow. The newspaper noted that the FDA had barred Aronow from further work involving testing of new drup (unless specifically allowed by the FDA)

Since Aronow had falsified data in his previous studies. Although the EPA was well aware of the FDA's charges against Dr. Aronow, the EPA made no effort to re-evaluate in a public manner the angina/CO studies that Aronow had conducted for the EPA.

On April 4, 1983, Spokane newspapers insisted that the EPA take action. Not until hearing from Spokane did EPA officials appoint a four-member "ad hoc" committee to take a new look at Aronow's work. This "ad hoc" committee met on April 20, 1983, but to date the EPA refuses to disclose their findings.

Since two members of the appointed "ad hoc" group, Dr. Horvath and Dr. Ayres, have worked with Dr. Aronow in writing the CRITERIA DOCUMENT FOR CO STANDARDS (EPA 1979) and are already on record (Fall, 1981) as stating the Aronow studies are perfectly valid (against complaints from SCAPCA) of 1981 that the studies were "too good" ..charges the FDA have echoed) we have little faith that the findings of the "Ad hoc" group are truly unbiased.

Even in October, 1980, SCAPA complained to the EPA that the Anderson study did not agree with the assumptions of the EPA regarding CO:

A. The Coburn Table accurately predicts the amount of CO that hemoglobin will absorb for a given amount of CO breathed.

B. The more CO the blood absorbs (Carboxy hemoglobin) the less exercise a person can perform.

A. The Coburn Table and the Anderson Study (1973)

COBURN PREDICTION TABLE
% COHB PER ppm OF CO.

CO (ppm)	Exposure Time (Hours) 1		2		4		8		% COHb at Equilibrium Based on Haldane Equation
	Resting	Moderate Exercise	Resting	Moderate Exercise	Resting	Moderate Exercise	Resting	Moderate Exercise	
5.0	0.6	0.6	0.7	0.7	0.8	0.8	0.9	0.9	0.9
9.0	0.7	0.8	0.9	1.0	1.2	1.3	1.4	1.5	1.6
15.0	1.0	1.1	1.3	1.5	1.8	2.0	2.2	2.4	-
20.0	1.1	1.4	1.6	2.0	2.3	2.6	2.9	3.1	3.5
25.0	1.3	1.6	1.9	2.4	2.8	3.2	3.6	3.8	-
35.0	1.6	2.1	2.5	3.2	3.8	4.5	4.9	5.3	-
50.0	2.2	2.9	3.5	4.5	5.2	6.3	7.0	7.6	8.2

Whereas the Aronow patients all conform to the Coburn Table (for example reaching COHb levels of approximately 2% after breathing 50 ppm of CO for one hour) none of Anderson's patients even came close. After breathing 50 ppm of CO for four hours Anderson's patients averaged only 2.9% instead of the predicted 5.2%. After breathing 100 ppm. of CO for four hours Anderson's patients averaged only 4.5% instead of the predicted 8 - 10%.

Summary: The EPA may retain the Coburn Table or it may retain the Anderson Study: It cannot retain both, since they are mutually contradictory.

B. The EPA's CO Standards are based on the Aronow Studies which showed that as his angina pectoris patients increased their COHb % their exercise ability decreased proportionately. The same was true for Aronows' long patients (COPD) and those with diseased leg arteries (Intermittent Claudication). Anderson's graph (see attached) shows a horizontal pattern (—);Aronows' studies since 1972 shows a sloping pattern (/). The Anderson and Aronow 1971 studies show a threshold of 2.9% COHb which suggests 18-20 ppm/8 hrs. would be acceptable. Aronow's works since 1972 (especially the 1973; 1980 and 1981) predict problems for angina patients even at 1% COHb and suggest that 5 - 7 ppm CO/8 hr. is needed.

Summary: The EPA may use studies by Aronow or by Anderson, but not both since these men's works are mutually contradictory.

III, Under present EPA Rules, IF Spokane were to agree to enforced vehicle maintenance and inspection (at a cost of approximately $4,000,000 a year) we would be given an additional five years to clean up our air.

But, if there is a true CO health hazard for "sensitive persons, why should cities and counties be granted a reprieve? Besides, no city has ever achieved its compliance via M/I and once an automobile has had $50.00 of work, it is forgiven and can legally continue to pollute.

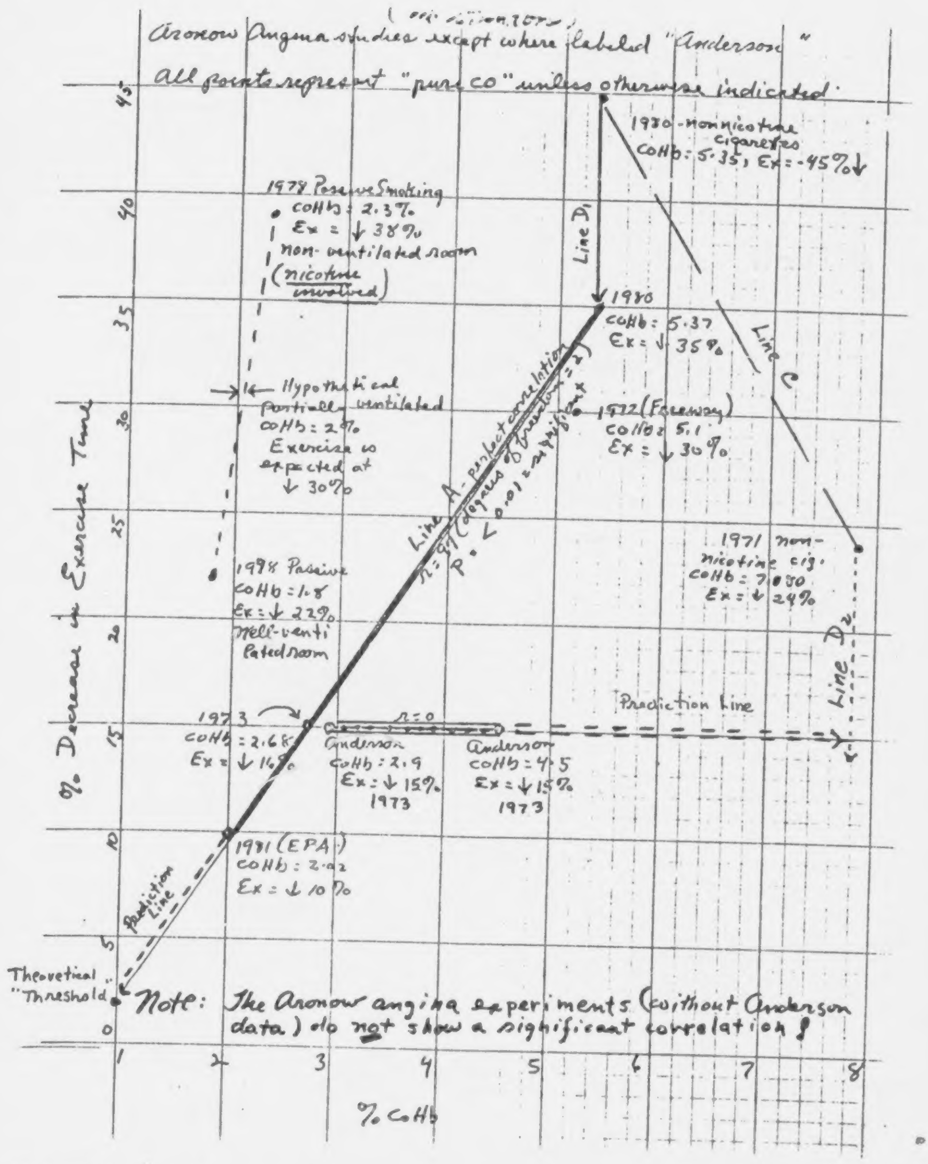
IN SUMMARY

The EPA has proceeded in a most unscientific manner in setting National Clean Air Standards for Carbon Monoxide. Studies by Aronow and Anderson should be replicated. If a health hazard is confirmed, steps should be taken immediately to protect the "sensitive" population. If the CO Standards are found to be too strict, the EPA should so inform the public.

Thank you,

Marilyn M. Stanton

Marilyn M. Stanton
May 3, 1983



Aronow Angina studies except where labeled "Anderson"

All points represent "pure CO" unless otherwise indicated.

Note: The Aronow angina experiments (without Anderson data) do not show a significant correlation!

Note #1: If all the Aronow angina/co studies are plotted, the points are widely scattered. Aronow does not correlate with himself!

Note #2: If only the 1973, 1980 and 1981 Aronow studies are considered there is a miraculously perfect correlation (r = 1) ... almost as if the author had planned the data before conducting the experiments.

Note #3: The Anderson line (—), r = 0, shows no correlation with EPA's contention (the more CoHb, the sicker the patient) nor with the Aronow line (/) of Note #2.

LITERATURE CITED

1. Anderson, E.W., R. J. Andelman, J.M. Strauch, N.J. Fortuin, and H. H. Knelson Effect of low-level carbon monoxide exposure on onset and duration of angina pectoris: A study on 10 patients with ischemic heart disease. Ann. Intern. Med. 79: 46-50, 1973.

2. Aronow, W. S. Effect of passive smoking on angina pectoris. New Engl. Jour. Med. 299: 21-24, 1978

3. Aronow, W.S. Effect of non-nicotine cigarettes and carbon monoxide on angina. Circulation 61: 262-265, 1980

4. Aronow, W.S. Aggravation of angina pectoris by two percent carboxyhemoglobin. Amer. Heart J. 101: 154-157, 1981.

5. Aronow, W.S., J. Ferlinz, and F. Glauser. Effect of carbon monoxide on exercise performance in chronic obstructive pulmonary disease. Am. J. Med. 63: 904-908, 1977

6. Aronow, W. S., and M. W. Isbell. Carbon monoxide effect on exercise-induced angina pectoris. Ann. Intern. Med. 79: 392-395, 1973.

7. Aronow, W.S., E.A. Stemmer, and M. W. Isbell. Effect of carbon monoxide exposure on intermittent claudication. Circulation 49: 415-417, 1974

8. Aronow, W.S., C. N. Harris, M.W. Isbell, S.N. Rokaw, and P. Imparato. Effects of freeway travel on angina pectoris. Ann. Intern. Med. 77:669-676,1972.

9. Aronow, W.S., and S. N. Rokaw. Carboxyhemoglobin caused by smoking non-nicotine cigarettes: Effects in Angina Pectoris. Circulation 44: 782-788, 1971

10. Beard, R.R., and G. A. Wertheim. Behavioral impairment associated with small doses of carbon monoxide. Am. J. Pub. Health 57: 2012-2022, 1967.

11. Bishop, O.N. Statistics for Biology. Houghton Mifflen Company, Boston. pp. 65, 66 and 170. 1966.

NATIONAL COUNCIL FOR ENVIRONMENTAL BALANCE, INC.

TESTIMONY OF DR. IRWIN W. TUCKER
BEFORE THE ENVIRONMENTAL PUBLIC WORKS COMMITTEE
UNITED STATES SENATE
HONORABLE ROBERT T. STAFFORD, CHAIRMAN
May 3, 1983

Mr. Chairman, Members of the Committee:

Thank you for the opportunity to appear here to express my personal views on the subject of your hearing. While these views are mine individually, I feel that they largely reflect the general outlook of my associates, both in the National Council for Environmental Balance, the National Agriculture Legal Fund, and elsewhere.

I am a graduate in engineering from the George Washington University and in chemistry from the University of Maryland, where I obtained a Ph.D. My experiences include food research in the U.S.D.A., industrial evaluation in the U. S. Department of Commerce and most recently, Professor of Environmental Engineering at the University of Louisville.

I am President of the National Council for Environmental Balance, of which I was one of the founders in 1972, and I also am a member of the Board of Directors and Treasurer of the National Agriculture Legal Fund, just recently organized to protect our food and fiber supply from unwarranted restrictive action which has characterized much recent action of the EPA, which increasingly jeopardizes one of the last bastions of the U. S. technological superiority.

I share with you your concern over the future of the EPA. There is, however, a serious question whether this agency, either in the recent past or throughout its existence ever exhibited any high degree of proficiency and capability and I, for one, would hope that these shortcomings would be corrected. This is a vast topic and I will cite only a few highlights that illustrate my concerns. First, I would like to point out what will serve to illustrate the shortcomings of the EPA and rather than my own words, I will quote those of Congressman Wes Watkins in 1978, or thereabouts, as follows:

> "Following the fiasco of the Environmental Protection Agency's Community Health and Environmental Survelliance System (CHESS) Studies, provisions were included in the Environmental Research, Development and Demonstration Authorization Act of 1978 (P.L. 95-155) requiring that the agency submit all criteria documents and proposed standards to the Science Advisory Board for its independent review and suggestions. Our Committee report accompanying that bill (House Report 95-157) stressed that the 'legislation strengthens the position of EPA's Science Advisory Board to render independent scientific evaluations of the technical basis for environmental regulations to decisionmakers.' Another section of that report adds that 'by spelling out the nature of the (SAB) review to be carried out, the committee intends to emphasize the importance of having a high quality, rigorous program of health effects research and the maintenance of the quality of scientific method'."

Few, if any of the EPA investigations are carried out with a scientific thoroughness and quality investigations that such important matters deserve. The so-called ALSEA Studies on which EPA based its action against 2,4,5-T, were subsequently found by Oregon State University to be a thoroughly flawed investigation and there is substantial evidence that the impetus for the undertaking stem not from any concern of human health, but rather the protection of certain interest in the growth of marijuana in the remote areas of the forests in that section. Similarly, the studies relating to genetic damage attributable to Love Canal where certain incompetent studies carried out which seemed like more of an effort to legitimize previous unwarranted judgments rather than to determine the scientific facts.

Returning to Congressman Watkins' views, he states further that:

> "Dr. James L. Whittenberger, Chairman of a Science Advisory Board subcommittee that was to have reviewed EPA's revised photochemical oxidant standard and the criteria document upon which that standard was supposedly based ... testified EPA never submitted either the final criteria document or the standard to his subcommittee for its review, as plainly required by the law. In fact, he stated the subcommittee twice rejected drafts of the proposed criteria document because they "just could not accept it." This distinguished professor of physiology at Harvard's School of Public Health testified the criteria document contained much speculation that was not labeled as such. He also stated EPA apparently formulated the photochemical oxidant standard independently of the criteria document."

Unfortunately, these several instances which I cite are all too typical of EPA throughout its history.

I would like to turn now to some thoughts concerning the administration of the EPA and what we might expect of the nominee. I would call your particular attention to his apparent lack of confidence in science, which you will see from the attached letter, as well as what appears to be his greater concern for politics, which he seems to distinguish in terms of whether it is spelled with a small or a capital "p." The appended letter is one from the nominee addressed to Mr. Allan Grant, dated April 26, 1979, in response to a request that the Weyerhaeuser Company participate in a Dispute Resolution Conference sponsored by the American Farm Bureau Federation. You will see in the second paragraph that the nominee's emphasis is on political considerations with barely a nod to the desirability of determining the scientific facts. It seems incomprehensible that he should have reacted as he did to the call for a group of scientists from throughout the world and of the highest credentials coming together to put together the rational scientific basis for answering questions concerning the safety, in this case, of 2,4,5-T herbicide. What may have triggered the nominee's response was the mere mention of DDT and the fact that he personally undertook to banish DDT in direct conflict with the weight of sworn testimony presented and the conclusion of the administrative law judge. His several statements on this subject are singularly incongruous. Concerning the banning of DDT, he stated:

> "DDT is concentrated in organisms and transferred through food webs ... the accumulation in the food chain and crop residues results in human exposure. Human beings store DDT. The above facts constitute an unknown, unquantifiable risk to man and lower organisms."

This is in direct contradiction to what he said less than two years previously, August 31, 1970, as follows:

> "DDT is not endangering the public health and has an amazing and exemplary record of safe use. DDT, when properly used at recommended concentrations, does not cause a toxic response in man or other mammals and is not harmful. The carcinogenic claims regarding DDT are unproved speculation."

The fact, of course, is that DDT is one of the safest chemicals ever used and in fact, so much so, when some careless individuals mistakenly made pancakes of the DDT powder, thinking it was flour, they suffered only a slight discomfort for a relatively short period of time with complete recovery. The remarkable safety of this chemical was further testified to by the World Health Organization which, in 1979, referred to the remarkable results it produced in controlling malaria -- superior to anything otherwise achievable. " ... Exceptionally good safety record with no indication of teratogenic or mutagenic effects or of carcinogenicity in man."

The counterproductive outcome of the DDT decision is referred to in a recent paper still in draft form, by Dr. J. Gordon Edwards of the San Jose State University, entitled, "Life With Pesticides, Death Without them," in which he states in part:

> "By 1970, of 2,000 million (2 billion) people living in formerly-malarious regions, 79% were safe because the disease had either been eradicated from their homeland or was under effective control there. By 1972, the EPA had overruled the scientists and health experts, and banned most uses of DDT in the United States. The great anti-DDT campaign and the subsequent political action by the EPA led to world-wide concerns about DDT, even in countries where malaria was prevalent. Six years later there were 800 million cases annually, and at least 8.2 million deaths every year."

(A copy of Dr. Edwards' draft paper is presented for the committee's personal use although not yet authorized for publication.)

Enlightened environmental concern is most certainly required in many areas as we continue to our advanced technology, which has made the standard of living in this country what it is. It is, however, utter folly to spread the fear that the media and others have foisted on the American public concerning environmental problems. In large measure, not only has the U. S. public been spoon fed a great deal of environmental fraud, but our productive capacity has been seriously impaired and I am certain that much of our current economic ills derive from environmental excesses which deserve the Congress' further serious attention.

In closing, I would urge this committee to extract a renewed commitment that the EPA be dedicated to the highest principles of scientific ethics. I would urge further that future decisions of any EPA Administrator be as isolated as possible from political considerations. Finally, I would hope that the next administrator would undertake to inform the public of the tremendous cost it and not the business community, is forced to bear for what in many cases is little or no health or other benefits. In the case of PCB, I have heard that we are laying a cost of one trillion dollars on the utility rate payers, in the absence of any evidence of significant health effects except in cases of extreme exposure, when a mild, totally reversible skin disorder (chloracne) has been observed. One trillion dollars is the equivalent of $15,000 for every man, woman and child in the U.S.

Weyerhaeuser Company

William D. Ruckelshaus
Senior Vice President

Tacoma, Washington 98401
(206) 924-2219

April 26, 1979

Mr. Allan Grant
President
American Farm Bureau Federation
225 Touhy Avenue
Park Ridge IL 60068

Dear Mr. Grant:

Our company has received a request for a contribution to a Dispute Resolution Conference on 2,4,5-T sponsored by the American Farm Bureau Federation. Any effort to enhance our societies' ability to rationally resolve questions as complicated as the use of herbicides is to be applauded. All the more reason why the "background and rationale" paper on the conference is so unfortunate.

In the first place, the basic assumption of the paper is that the question of continued use of 2,4,5-T is a scientific one. Decisions by the government involving the use of toxic substances are political with a small "p." Political in the sense that it reflects a society weighing what risks it is willing to accept in return for what benefits. Obviously, scientists have a role to play in this decision-making process. A careful assessment of the nature of the substance, its toxicity, persistence, etc. is crucial to framing the factual background for a rational decision. Needless to say, many of these questions are not subject to scientific certitude. Likewise, in weighing the benefits, science along with other disciplines such as economics, has a role to play.

The ultimate judgment remains political In the case of pesticides in our country, the power to make this judgment has been delegated to the Administrator of EPA. If your Dispute Resolution Conference does not explicitly recognize this delegation, properly characterize the nature of the decision as political, and restrict the scientific inquiry to areas proper for science's role, it will resolve nothing.

The background paper on page 2 uses DDT as a case in point. It erroneously claims that I have stated the decision on DDT was a Political one. Political in the background paper is used in a pejorative sense of being the result of unwarranted pressure. It was my judgment in 1972, when I made the decision regarding DDT, that the risks outweighed the benefits. Politics with a capital "P" had nothing to do with it, nor have I ever so stated. The paper then correctly states that my decision was contrary to a conclusion of an administrative law judge that the uses of DDT should not be cancelled. The paper overlooks the fact that since 1963 three scientific advisory committees had been convened by government agencies to look into the allegations regarding DDT. They all recommended first to the Agricultural Department, and then later EPA, the discontinuance of the use of DDT. If the government had relied solely on the scientists in the DDT controversy, it would have been banned years before it finally was. This is not to say the scientists were right, or the hearing officer was wrong, but rather that decisions of this nature are inherently complex and emotional and trying to characterize them as subject to neat, scientific exactness further obscures this complexity.

Further, if your conference is to achieve its stated purpose of objectivity, it should avoid statements regarding the current scientific opinions regarding the analysis of EPA's ALSEA study. On page 2 of the background paper the author indicates no knowledge by your organization of anyone supporting EPA's conclusions. This may or may not be true, but should be a goal of the conference and not an assumption at its commencement.

If you detect a note of outrage in my letter, you are correct. My concern is not that the background paper simply repeats certain allegations regarding the DDT decision that have become part of the rhetoric of those opposed to that decision, but that they are made in the context of an effort that could be very important to the country. I am convinced that many of the decisions made in the health, safety and environment arena do not properly balance the risks and benefits to our society. The imbalance is too often struck in favor of health, safety and the environment and away from other equally legitimate social concerns. The way your conference is headed, it will only fuel the emotionalism of the debate and likely tip the balance further. Please change this background document so that it strikes the balance it recommends for our society. If not, I would request you make this letter a part of your conference material.

Under the circumstances, we must at present decline to support your conference.

Sincerely yours,

W. D. Ruckelshaus

cc: Dr. T. C. Byerly
Dr. F. H. Tschirley
Mr. Rick Main
Mr. Milton Wessel
Mr. Ralph Hodges, Jr.

NATIONAL COUNCIL FOR ENVIRONMENTAL BALANCE, INC.

LIFE WITH PESTICIDES - DEATH WITHOUT THEM

By Dr. J. Gordon Edwards DRAFT April 29, 1983

Numbers of people have needlessly died of insect-transmitted diseases, starvation, malnutrition and associated maladies. These human beings would and should have lived longer had they not been unnecessarily deprived of the benefits of chemicals such as insecticides, herbicides, fungicides, nematocides, rodenticides and bacteriacides.

Let us first ponder the insect-borne diseases such as malaria, yellow fever, typhus, plague (black death), sleeping sickness and encephalitis, ignoring the disfigurement and suffering caused by elephantiasis, leishmaniasis, and onchocerciasis (river blindness).

A leading British scientist once said that "If the various pressure groups had succeeded, if there had been a world ban on DDT as many sought, then Rachel Carson and her book Silent Spring would now be killing more people in every single year than Hitler killed in his whole holocaust." There is no denying that assessment, but the most frightening thing about it is that the pressure is even greater now than ever before to actually bring about a world-wide ban on the use of not just DDT but every other chemical pesticide!

The worst disease of mankind has been malaria, even though at various times in the past typhus killed millions of people (before DDT put a halt to it) and the plague eradicated half the population of Europe and nearly two-thirds of the people in the British Isles. Malaria was, and is, the number one killer of people, and it threatens to be even more lethal in the future as the capricious anti-pesticide propaganda of the pseudo-environmentalists continues to accelerate.

Things were going well in the 1950's, and there was justifiable hope that malaria could be almost eradicated in large areas of the world. By 1970, of 2,000 million (2 billion) people living in formerly-malarious regions, 79% were safe because the disease had either been eradicated from their homeland or was under effective control there. By 1972, the Environmental Protection Agency had overruled the scientists and health experts, and banned most uses of DDT in the United States. The great anti-DDT campaign and the subsequent political action by the EPA led to world-wide concerns about DDT, even in countries where malaria was prevalent. Six years later there were 800 million cases annually, and at least 8.2 million deaths every year.

Leaders in many other countries, seeing the EPA's concern about DDT, concluded that they, too, should no longer use it. Unfortunately, when "poor" countries stop using essential life-saving chemicals their ancient pestilences quickly return. In Central Africa, more than a million children under two years of age are now dying of malaria every year. In Ceylon (Sri Lanka), the DDT program had reduced the number of malaria cases from nearly 3 million down to just 17 cases in the entire country after 10 years. The number of deaths from the disease dropped from over 12,000 a year down to zero.

Concern over Rachel Carson's remarks about DDT, aided by political and financial difficulties, halted the effective malaria program at that critical time, and there resulted a resurgence of malaria. A few years later there were again more than 2 million cases of malaria in Sri Lanka. Fortunately, many countries did not halt their programs, so malaria actually was eradicated in great areas of the world!

In many parts of the world, drug-resistant forms of falciparum malaria developed shortly after the irresponsible environmentalists prevented rapid eradication of the parasites. Unlike the rather mild vivax type of malaria that predominated in Sri Lanka, this "resistant falciparum malaria" may kill up to 40% of its victims who suffer relapses. The hazard is no longer limited to the blacks and Asians in those countries where Global 2000 advocates seek to drastically reduce human populations by the year 2000. The deadly form of malaria now threatens many world travelers and may well become established in North America and Europe in the future. The industrialized nations may yet pay a very high price for their submission to the environmental extremists!

It is not only the insect-borne diseases that decimate human populations. The bans and restrictions on essential agricultural chemicals have contributed greatly to the daily toll of humans dying of starvation, malnutrition, and numerous other effects of dietary inadequacies. In many countries, the people have been so weakened that they cannot work effectively in the fields. They are also much more susceptible to illnesses that would not kill vigorous, healthy people.

More than 40,000 children starve to death every day, according to the Agency for International Development, and that adds up to 15 million horrible deaths a year! Furthermore, malnourished children will never develop their full brain capacity, which promises great difficulties in future years for the nations with persistent food-shortages. It is now known that protein deficiency in the diet leads to marasmus and kwashiorkor, and that milder levels of protein-calorie malnutrition affect about half of all children under 20 years of age in the underdeveloped countries. The resultant weakness leads to great increases in infections such as hepatitis, tuberculosis, dysentery, amebic liver abscesses, schistomiasis, typhoid fever, and so forth. Antibody synthesis is also impaired in those children, resulting in a great many deaths that would not occur if their diet was adequate.

Because of the poor condition of the workers, India produced less than 25 million tons of wheat per year in the 1940's. Twenty years later, after DDT had been widely used for public health purposes there, the people were living much longer and doing much more work. Their wheat production quadrupled to more than 100 million tons annually, and other crops showed equally impressive increases. Meanwhile, the number of cases of malaria had dropped from 100,000,000 per year in the 1940's, with about 2,500,000 deaths annually, to only 300,000 cases a year and only about 1,500 deaths.

Obviously, a population that is able to work hard and produce abundant food can reduce the levels of malnutrition and starvation, and can live much more pleasantly, with increased resistance to contagious diseases.

"But why use any pesticides at all?," ask the environmentalists from their plush offices. After all, they say, there are surely alternative measures that can effectively control most pests. Well, while it is true that many kinds of scales and aphids have been controlled by biological control agents or integrated pest management, a successful program of that sort requires great numbers of trained entomologists, modern rearing facilities for the parasites, and a great many other essentials that no underdeveloped nation could possibly afford. Also, such programs have yet to be truly effective in the control of most other kinds of pests.

We need not look very hard to find refutation for such irresponsible suggestions as those by the organic farming groups. China has used those alternative measures for a great many centuries, starving most of the time, and 80% of their people must still work all day in the fields to eke out a bare subsistence. Similar conditions prevail in many third world nations, except where chemical tools have been introduced by representatives of the so-called industrialized nations. The miracle of modern agriculture can only be appreciated by comparing it with the alternative programs! Thanks to that sort of agriculture, each modern farmer in the United States now provides enough food for himself and 70 other persons (including 20 persons overseas). That would not be possible without the use of essential agricultural chemicals, yet some Americans continue their campaign to make pesticides unavailable to American farmers AND to prevent them from being exported to those starving third world countries.

The Audubon Society and Natural Resources Defense Council filed suit in 1977 seeking to force the Export-Import Bank to file environmental impact statements for all overseas projects they finance. That was intended to halt the purchase of life-saving pesticides for use in those underdeveloped countries. More funds were involved than one might expect, since from 1974 through 1976 over $20 billion of financial assistance was provided to those countries by the Ex-Im Bank, of which more than $3 billion was for pesticides. The suit was opposed by the Mid-America Legal Foundation. After four years, they won a federal court ruling against the pseudoenvironmentalists, and as the president of the Foundation phrased it, "The federal court order means that American exports will not be curtailed and our nation will not be practicing environmental imperialism."

In 1978 a White House Executive Order was drafted by President Carter's assistant for consumer affairs. The Order proposed a ban on "hazardous substances" which would otherwise be shipped overseas. Despite opposition by the Department of State, Department of Treasury, Department of Commerce and Department of Defense, the EPA and CEQ activists persisted in their efforts to require all federal agencies to prepare environmental impact assessments on their international activities. When President Reagan took office he set aside that order which Carter had put into effect during his final days in the white house. The clamor was immediately deafening, and many activists claimed that Mr. Reagan was releasing tons of deadly insecticides which would poison members of the third world countries. As a matter of fact, President Carter's Order barely mentioned pesticides. The "hazardous substances" that were specified in that Order were defined as "pesticides, chemicals, non-nuclear hazardous wastes, food (including meat and poultry), food additives, drugs, cosmetics, medical devices and electronic products." Exempted from the Order were "alcohol, tobacco, narcotics, nuclear fuels, and firearms."

When one considers all the commotion caused by American "environmentalists" and notices that many of their positions are very destructive to the environment, rather than preserving it, one wonders just what IS their motivation. Why would they fight against the use of insecticides that could prevent the destruction of millions of acres of forest by gypsy moths? Why insist on the burning of tremendous amounts of coal to create electricity, when the burning ruins the atmosphere over four states? Why oppose the export of insecticides to countries that need them to grow their crops, and why oppose the importation of food grown in those countries because it might have traces of insecticides on it? Do they really think the birds they enjoy counting may decline as a result? Are they really afraid to eat food with traces of the insecticides that were once so abundant, but harmless, on food produced in the United States?

What motivation drives those wealthy activists to prevent the starving masses of humanity elsewhere from obtaining the chemicals that would reduce their misery and save millions of lives? Do they simply want to attract larger donations from the people on their huge mailing lists by terrorizing them with false claims and outlandish implications? Or do they simply desire to wield greater power in the United States and around the world? Or are they deliberately intent upon crippling American agriculture and ruining the industries that now employ so many American workers? Or is their long-range goal the worldwide decimation of human populations that they think are reproducing too rapidly? OR are most of those antipesticide activists simply naive, uninformed or misinformed "groupies" who have never really given serious thought to the effects of their irresponsible actions on other human beings? I submit that the reasons are not as important as the results, and that greater efforts must be made to educate those individuals who are in the latter category and to thwart those whose true goal is widespread genocide.

What is the death toll resulting from pesticide restrictions here in the United States and around the world? It is impossible to calculate with any great accuracy. Right now 15 to 20 million people are dying of direct starvation each year, while at least that many more are succumbing to the indirect effects associated with malnutrition and protein-calorie deficiency. The knowledge and ability is available now to reduce those figures ... but not without pesticides and other agrichemicals, and with stronger, healthier workers in the fields. At least 10 million people die annually from malaria, alone, millions more perish from the side-effects of malaria and other diseases, and additional millions are killed by various other preventable and treatable maladies.

It would appear reasonable to conclude that, directly or indirectly, between 60 and 100 million people are dying every year as a result of the anti-pesticide activities which have caused restrictions or bans on the pesticides that could prevent such deaths.

How many more human lives must be sacrificed on the altar of pseudoenvironmentalists extremism? Only time can tell!

National Democratic Policy Committee

Lyndon H. LaRouche, Jr.
Chairman
Advisory Council
Warren Hamerman
Chairman
Barbara Boyd
Treasurer

Post Office Box 26 • Midtown Station, 233 W. 38th Street • New York, New York 10018 • (212) 927-4444

Statement of Susan Kokinda
for the National Democratic Policy Committee

Nomination of William Ruckelshaus
to be Administrator, Environmental Protection Agency
Senate Committee on Environment and Public Works
May 3, 1983

Thank you for the opportunity to testify. The National Democratic Policy Committee is a multi-candidate political action committee and a membership organization comprised of 30,000 members in most states of the union. The NDPC was founded in 1980 by Lyndon H. LaRouche, Jr., to provide a policy alternative to the leadership of the Democratic Party, and has taken a wide variety of positions on strategic, economic and energy-related issues--all underscored by the theme that aggressive rates of economic growth and the constant introduction of new technologies provide the framework within which to solve our problems, at home and abroad.

The NDPC opposes the nomination of William Ruckelshaus to be Administrator of the Environmental Protection Agency. While our posture has been to support the President's judgment in matters of Presidential appointment, we cannot do so in the case of Mr. Ruckelshaus. Politically, we believe Mr. Ruckelshaus to be a "trojan horse," who will function within the administration as an emissary of those "eastern establishment" or "Kissinger" republicans to undercut President Reagan. The witch-hunt circumstances under which former Administration, Anne Gorsuch, was forced to leave, clearly affected the ability of President Reagan to make an optimal choice in this matter. As a result of having to assuage the "hounds" in the press and in Congress, the President choose a man who, in all likelihood, has an agenda quite different from his own.

It is that agenda, and more broadly, the policy issues surrounding this nomination, which is most important. Testifying on the nomination of Anne Gorsuch approximately two years ago, the NDPC spoke of the Carter Administration-authored Global 2000 report and warned that its agenda was still alive and kicking within pockets of the Administration and, as such, had to be fought. Global 2000 is a chilling blueprint for a world dominated by zero-growth or neo-Malthusian thinking. Global 2000 calls for reducing the worlds population by 2 billion people by the year 2000. Even the most fanatic population controller will tell you that it is impossible to reduce the growth of the world's population by 2 billion people through birth control methods. The advocates of that magnitude of population reduction can only be taking into account reductions through starvation, pestilence and dislocation.

One single act, taken by Ruckelshaus in his previous tenure at EPA, qualifies him as an advocate of the philosophy of the (then unwritten) Global 2000 worldview, and disqualifies him to be a member of this Administration. In 1972, Ruckelshaus unilaterally and arbitrarily banned the pesticide DDT, leading to its eventual prohbition worldwide. His action followed nearly a year of hearings and some 9,000 pages of hearing transcript. After hearing all the testimony and studying the transcript, EPA hearing examiner Edmond

Sweeney ruled on April 26, 1972, "DDT is not a carcinogenic hazard to man. DDT is not a mutagenic or teratogenic hazard to man. The uses of DDT under the regulations involved here do not have a deleterious effect on freshwater fish, estuarine organisms, wild birds, or other wildlife. . . . The evidence in this proceeding supports the conclusion that there is a present need for the essential uses of DDT."

This decision was overruled singlehandedly by EPA administrator William Ruckelshaus, who had never attended a single day of those hearings and who admitted that he did not even read the transcript.

Ruckelshaus later wrote that, "Decisions by the government involving the use of toxic substances are political with a small 'p'...Science, along with other disciplines such as economics, has a role to play. The ultimate judgment remains political. In the case of pesticides in our country, the power to make this judgment has been delegated to the administration of EPA."

In later testimony before Congress, Ruckelshaus cited as his justification a secret memorandum on DDT--a memorandum classified to this day. The memorandum is said to be a scientific fraud, containing lying and fallacious arguments put forward by the Audubon Society.

What have been the consequences of this decision and its after effects? I quote from a speech given by Dr. J. Gordon Edwards, a professor of entomology at San Jose State University, to a conference of the Club of Life in Washington DC on February 18, 1983:

"Let us look at the numbers of people who have needlessly died of insect-transmitted diseases, of starvation, of malnutrition, and associated maladies. In other words, let us consider those humans who would have, and should have, lived longer had they not been unnecessarily deprived of the benefits of chemicals such as insecticides, herbicides, fungicides, nematocides, rodenticides, and bacteriacides...The worst disease of mankind has been malaria, even though at times in the past typhus killed millions of people (before DDT put a halt to it). Malaria was, and is, the number one killer of people, and it threatens to be even more lethal in the future as the capricious anti-esticide propaganda of the pseudo-environmentalists continues to accelerate. Thinks were going well in the 1950s, and there was justifiable hope that malaria could be almost eradicated in large areas of the world. By 1970, of the 2 billion people living in formerly malarious regions, 79 percent were safe because the disease had either been eradicated from their homeland or was under effective control there. By 1972, the EPA had overruled the scientists and health experts, and banned most uses of DDT in the United States. The great anti-DDT campaign and the subsequent political action by the EPA led to worldwide concerns about DDT, even in countries where malaria was prevalent. Six years later, there were 800 million cases annually, and at least 8.2 million deaths every year. In ceylon, the DDT program had reduced the number of malaria cases from nearly 3 million down to just 17 cases in the entire country after 10 years, and the number of deaths from the disease dropped from over 12,000 a year to zero. After the DDT ban and scare, there were again more than 2 million cases of malaria in Ceylon."

Those figures are comparable for other areas of the world, and are spelled out in Dr. Edward's speech, which I would like to submit for the hearing record.

That is the consequence of a decision made on political, rather than scientific grounds. Dr. Edwards estimates that between 60 and 100 million people are dying every year as a result of pestilence, starvation and malnutrition brought about by the anti-pesticide policies of the "environmentalists."

This is the practical implementation of Global 2000. The NDPC believes that Ruckelshaus has prepared a secret agenda that involves passage of new environmental regulations that will re-impose the Carter administration world-wide ban on the export of U.S. chemical fertilizer and pesticides, compounding the death toll from the DDT ban. We have reason to believe that the chemical and pharmaceutical industries will come under particular attack by Ruckelshaus and that the entire issue of toxic waste will be used to inflict damage on U.S. industry and on our ability to export critical materiels to the developing sector.

Ruckelshaus has no loyalty to President Reagan nor to the U.S. economy. He is a member of the elite group, the Year 2000 Committee, which was established in tandem with the elite in the World Wildlife Fund, headed by Prince Philip, to implement the policies of Global 2000. Members of the Year 2000 Committee include former Carter Secretary of State and Global 2000 initiator Cyrus Vance. One year ago, a spokesman for the Year 2000 Committee stated that the group's policy was to paralyze the Reagan administration and then redirect its policies.

The world is facing an international financial crisis, in which a certain financial faction associated with the International Monetary Fund, the World Bank, and the Bank for International Settlements is demanding austerity, negative growth and population reductions for the developing sector. The Global 2000 orientation and William Ruckelshaus provide a useful "environmental" cover for carrying out those brutal policies. We urge that the philosophy and the nominee be rejected by this committee.

NOMINATION OF WILLIAM D. RUCKELSHAUS

WEDNESDAY, MAY 4, 1983

U.S. Senate,
Committee on Environment and Public Works,
Washington, D.C.

The committee met at 10 a.m., in room SD-106, Dirksen Senate Office Building, Hon. Robert Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Baker, Chafee, Simpson, Symms, Domenici, Durenberger, Humphrey, Randolph, Bentsen, Hart, Moynihan, Mitchell, and Baucus.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator Stafford. The Committee on Environment and Public Works will please come to order.

We would appreciate the cooperation of the press in allowing us to conduct these hearings in an orderly manner and avoid obstructing the view of members of the committee.

I welcome all of our visitors here on behalf of the committee, which has met this morning for the confirmation hearing with respect to Mr. William Ruckelshaus, who is quite well known to members of this committee in any event.

Mr. Ruckelshaus, we have had 1 day of hearings on the subject of your confirmation to be Administrator of the Environmental Protection Agency. You are our only scheduled witness for today and I expect that the morning, nevertheless, will be filled and that we may likely return tomorrow.

Hearings such as this provide a unique opportunity for the Congress, and the Senate in particular. At no other time during a nominee's career do we have the opportunity to question him and compel clear answers. Equally important, at no other time do we have the opportunity to express to a nominee in clear and direct terms our individual and collective views on matters of importance to us and the American people.

Two years ago I had the opportunity to express my views on the role of the Administrator of the Environmental Protection Agency. On that occasion I expressed my view that the Office of the Administrator was a unique position in American Government, one which carried with it special legal and moral obligations. Those obligations included speaking for the elderly and the infirm and protecting the air and water of this Nation.

I went on to say that these obligations flowed not only from an abstract sense of justice but from the laws of this land themselves.

I regret to say that in retrospect it appears that my observations were little noted or long remembered.

I hope that it will not be a circumstance which repeats itself today.

As I was reviewing the hearing record of 2 years ago, I found myself reading words written in an entirely different context but wholly appropriate to today's hearing. In an attempt to impress that day's nominee with the special tradition which was being passed on, I described the tenure of the Environmental Protection Agency's first Administrator. I said of him the following:

> Mr. Train's predecessor was William Ruckelshaus. He, too, adhered faithfully to his obligation to implement the laws protecting the air and water quality in the United States. Although an appointee of the President, he never became merely a servant of the Presidency. Instead he served the American people and the laws of the Nation.
>
> Many will remember that when he moved on to another position in the government, Mr. Ruckelshaus was forced to a choice. Compelled to choose between serving the people or serving the President who appointed him, he chose the people.

Many years have passed since Mr. Ruckelshaus first served as the Administrator of the Environmental Protection Agency. Men change, times change, and governments change.

One purpose of these hearings is to determine how much the nominee may have changed his fundamental views over the intervening years. It seems to this Senator that the following questions must be asked and answered.

First, we must know the extent to which the nominee will be able to make his own decisions. There are many areas where the laws expressly require a decision to be made by the Administrator of the Environmental Protection Agency and none other.

Therefore, we must know what assurances of independence the nominee has received and from whom.

Beyond that, however, is the question of what prejudgments or attitudes the nominee brings to the job. Of what use is it to invest an officeholder with independence if the decisions he would make on his own are the same as if they had been made on instructions. Therefore, a second question which must be answered today is whether the nominee can and will view some matters in a different light as a sworn protector of the public health and welfare than he did as the senior vice president of a large corporation.

A third question which these hearings must answer, in the view of this Senator, is what the nominee's policy will be regarding those laws or provisions of law with which he disagrees. He has previously demonstrated a capacity to enforce even those laws which he believed to be wrong. But the question for today's hearing is whether he can still recognize his obligation to enforce not only the letter of those laws with which he may personally disagree but the spirit of them as well.

Finally, we must know what specific actions the nominee proposes to take to revitalize the staff and programs of the Environmental Protection Agency.

Frankly, I expect that Mr. Ruckelshaus will be confirmed by the Senate. Our task is to assure that when confirmed he takes his oath of office with a heightened awareness of what the Congress and the American people expect of him.

So we can get on with that task with no further delay, I will stop here and invite my colleagues on the committee for opening statements.

Senator Randolph?

OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator RANDOLPH. Mr. Chairman, it is extremely rare that we have the opportunity to consider the nomination of an individual for the same job on two different occasions. But the fact that Bill Ruckelshaus has been asked by the President to again direct the activities of an agency he left 10 years ago attests to the esteem in which he is held.

The challenge facing Bill Ruckelshaus is considerably different from the one he accepted in 1970 as EPA's first Administrator. At that time he was charged with forming a comprehensive new environmental agency composed of diverse programs and entities located elsewhere in the Government. Today he is being asked to tackle what may be an even more formidable task, the restoration of an agency which in the period of 2 years has lost virtually all credibility with the public and the Congress, and whose effectiveness has been severely impaired.

The basic mission of the Environmental Protection Agency is essentially what it was when Bill Ruckelshaus left public life in 1973. The Agency remains entrusted with the execution of laws designed to protect the health and welfare of the American people. Most of these basic laws, incidentally, were developed in this committee. We regularly consider modifications, but I believe members of the committee are committed to the basic thrusts and objectives of such important statutes as the Clean Air Act, the Clean Water Act, the Solid Waste Disposal Act, and the Superfund Act.

It is fair to say that none of the environmental programs are the same as when Bill Ruckelshaus was responsible for their administration a decade ago. The Congress has approved substantial changes in the laws, and we have seen the development of procedures and organizations for carrying them out.

Our purpose this week is to review with Mr. Ruckelshaus his perception of the task that lays before him. We will discuss with him his plans for making EPA once more a responsible agency in which both the regulators and the regulated can have confidence. We do not expect miracles from him, and we expect from time to time to have differences of opinion on policy issues. We can accept these so long as there is dialog between the Agency and the Congress directed at resolving any differences that may develop.

I anticipate that members of the committee will discuss with you, Bill, many specific questions. I will certainly seek your viewpoints on several matters in which I have a particular interest in areas such as Federal assistance to State environmental programs and points involving the Solid Waste Disposal Act and the Clean Air and Clean Water Acts. I particularly mention an issue that will require your attention. Last October the EPA proposed a major change in the establishment of standards under the Clean Water Act. The proposed water quality approach is in conflict with the provisions of the act and is opposed by members of the committee. We have written your predecessor asking that the proposed regulations be withdrawn. Several of us have cosponsored legislation to specifically prevent such action. We urge you give this matter your early attention.

I expect also that members will want to know the extent of your mandate from the President and the extent of your freedom to direct the operations of EPA.

From our viewpoint, however, if there is a single overriding purpose for these hearings it is to impress upon you the desire of the members of this committee that environmental protection laws which we have so carefully fashioned be administered completely, vigorously and fairly. We stand ready to work with you in this challenge.

Thank you, Mr. Chairman.

Senator **Stafford**. Thank you very much, Senator Randolph.

Senator Chafee?

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator **Chafee**. Thank you very much, Mr. Chairman.

Mr. Ruckelshaus, on December 2, 1970—that was your first day on the job at EPA, as our records show—you were charged with creating an agency out of whole cloth and establishing instant credibility for it. You inherited nearly all of your employees and in some instances you had to place previously competing agencies under the same roof.

I thought in reviewing this that that assignment was probably the most difficult that any Administrator of EPA would have. But I think I am wrong. I think that the task you face today in restoring credibility to the agency that you founded in 1970 will be even more difficult.

The problems of the agency have become more complex since your first tenure, as has been pointed out here. As you noted in your letter to Vice President Bush, because of the complexities of our environmental laws and the emotionalism that each one carries with it, it has become difficult, as you noted, to amend in a timely and in a rational manner those laws.

You were essential in the process of getting approval of the 1970 Clean Air Act Amendments and the Clean Water Act Amendments of 1972. But over the last decade the thrust of our environmental laws, as you well know, has changed dramatically from one of resource management—in other words, keeping the air visible in our parks system, for example—to one of dealing primarily with public health protection. Many key laws, as Senator Randolph and others mentioned, have been passed since you left: RCRA and Superfund, for example. These are complicated laws and recent administration of them has been controversial, to say the least.

I am certain you are going to face many questions today about your plans to implement those laws in a more satisfactory and aggressive manner than your predecessor.

Knowing that the mandate from Congress has changed considerably over the last decade, it is fair to say your task will be more difficult because of the high visibility of environmental issues today and what has been happening to the agency over the past couple of years. That doesn't mean you can't do the job. I have every confidence that you can. But it is going to be difficult. This was illustrated to us yesterday when we had a host of environmentalists appear before us to discuss the large issues facing EPA and calling into question your views on several important matters.

I have had the privilege of knowing you for some time, and you are a man of the highest personal integrity and honesty. Obviously we will differ on some occasions in the future. But you come here with a wonderful reputation that is well deserved.

One answer that I will seek from you today—this has been mentioned previously, and I would like as clear an answer as possible—is what will be your authority as regards making policy decisions? Mrs. Burford appeared before this committee 2 years ago and during her confirmation proceedings I repeatedly asked her what her relationship would be with, for instance, the Natural Resource Cabinet Council. I was assured that her voice alone would be the voice speaking for the environment.

Although she may have thought that was true at the time, nothing was further from the truth. She didn't even sit on the Natural Resources Cabinet Council. Every time I was concerned about an environmental issue, I had to pursue somebody at the Pentagon or OMB or the White House domestic staff. It was frustrating.

I hope that won't occur during your tenure.

It seems to me we have to understand that no one else in the Federal Government has the title Administrator of the Environmental Protection Agency. It is a single-purpose job and a single-purpose agency. It is not charged with balancing environmental protection. Its sole charge is environmental protection. You, as I see it, have one commitment: protecting the environment. You will be responsible to this committee and others for your stewardship in that role.

I will listen carefully today as to what you see your role as being in this administration. Although your views on clean air and clean water are important, if they have to be filtered through about three layers of administration policymakers, then I question this administration's commitment to environmental protection.

Lastly, I want to commend you on coming forward with the material that you provided this committee, including speeches and correspondence that you have made over the last decade. I think that sets a new standard or at least a refreshing standard for forthrightness. I think it sets us off on the right path, that illustrates that you will be conducting that agency as representing the public interest. We appreciate that. Thank you.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Chafee.

Senator Bentsen?

OPENING STATEMENT OF HON. LLOYD BENTSEN, U.S. SENATOR FROM THE STATE OF TEXAS

Senator BENTSEN. Thank you very much, Mr. Chairman.

Mr. Ruckelshaus, welcome back to a cut in pay and a city of Monday morning quarterbacking.

Mr. Chairman, it was about 2 years ago when Mr. Ruckelshaus last appeared before this committee. It was at a time when we were first considering modifications of the Clean Air Act. It was a time when the administration's environmental policies were untested and many members of this committee were only beginning to make judgements on the Clean Air Act. Mr. Ruckelshaus now comes before us as the nominee to become Administrator of EPA again. Times are changed. We have spent two years trying to make modifications to the Clean Air Act. Interest groups are polarized and criticizing every compromise we have thus far reached. The administration has not played a significant role in these deliberations. Much of the administration's environmental policy has been weighed in the balance and found wanting. The Environmental Protection Agency has been criticized and ridiculed. Mr. Ruckelshaus, the first Administrator of EPA, has been asked to leave a high level executive position in industry to return to the EPA to resurrect the Agency. I can only conclude that he is willing to make this sacrifice because of a deep personal commitment.

At a time like this, it is paramount that we in the Senate, and particularly on this committee, spend some time considering what we want an EPA Administrator to be. Yesterday, we received testimony from various public witnesses. Some of these criticized Mr. Ruckelshaus for suggesting that we should reconsider some of the current philosophical structure of the Clean Air Act and other environmental laws. Others criticized him—it would appear—for actions taken on behalf of his company while working there. Still others accused him of poor and political judgment on the issue of DDT when he was Administrator of EPA in the early 1970's. I must say that, while I did not read every document supplied to the committee, those that I did read showed a man who was thoughtfully trying to grapple with the complex environmental problems facing the world today. Most notably, I do not find a rigid ideologist spouting a preconceived solution to problems without a consideration of current facts.

This brings me to the concept of what I expect the EPA Administrator to be. I have watched and worked with EPA since I first came to the Senate. It was an infant agency when I was a new Senator. It is important to recognize that EPA has the potential for enormous influence over the public health, over private industry, and over a myriad of Federal and State interactions. While it has, on the one hand, mandates to carry out laws designed to protect the environment and public health, it has, on the other hand, a responsibility to execute these mandates in a realistic, cost-effective, and fair manner. Clearly, if the power of EPA is abused, if one side of this balance is weighed improperly, EPA and its Administrator will not meet my expectations of responsible action. I must say that I have seen the power of the agency abused—on both sides of this balance—and I have criticized it accordingly. I believe that one test that any Administrator must meet is a commitment to develop a stable and competent agency, an agency dedicated to carry out the laws entrusted to it in a fair and responsible manner. It should be equally dedicated to candidly defining the shortcomings of those laws for those who must determine future policy. It must be an agency of high integrity. And, above all, it must not be used for political motives.

A second consideration for any Administrator is his personal commitment to carry out his responsibilities. Clearly, because we seek people to head EPA who have some experience in environmental policy, they will undoubtedly have a previous history of positions on environmental issues. Whether that background is industrial or environmental, the test should be whether he can take on the new role of a public official with the responsibilities it imposes. He must be able to fairly consider all sides of an issue and reach a balanced judgment consistent with the requirements of the laws. Realistically, we live in an adversarial society; all of his major decisions will be litigated—most likely by both sides. His decisions must be able to withstand these suits. Each Administrator will bring with him a view on policy issues and must in some form work with the President's views on policy. This is expected. Yet, once policy is determined through the passage of laws or the decision of the courts, the Administrator must be able to fulfill his responsibility to execute these laws in a fashion that is best for the Nation.

These are the tests against which I intend to measure Mr. Ruckelshaus.

I must say, parenthetically, that an example of abuse of this responsibility is now found in the Agency's actions to date on Clean Air Act sanctions. Rather than use elements of the act to provide the least adverse effects on the Nation, the Agency has chosen to attempt to threaten these sanctions to panic the Nation and stampede Congress into weakening the act. This is wholly irresponsible.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Bentsen.

Senator Symms.

OPENING STATEMENT OF HON. STEVE SYMMS, U.S. SENATOR FROM THE STATE OF IDAHO

Senator SYMMS. Thank you very much, Mr. Chairman.

I want to join my colleagues in taking great pleasure in welcoming you back, Mr. Ruckelshaus. I also welcome our two distinguished Senators from your State of Washington.

I know it must have been a difficult decision for you to leave the scenic splendor of Washington State and a good job where your decisions were your own to come back and answer the President's call of duty for the country's sake. I appreciate your decision, and I am glad you are here. I think we are lucky to get you.

I certainly don't envy you for the position to which you have been nominated. If you would have heard some of the environmental groups' charges over the past years, which I am sure you have, it would seem through their zeal there has been very little done to clean up the environment. And yet I admire you for your candor when you told the committee in 1981 that air quality has improved over the last decade and that we should stop whipping ourselves since we are now responsive to public concern about air pollution.

Your conclusions to that observation were very near those I attempted to bring to congressional deliberations on the environment, that clean air and water can be achieved in harmony with economic growth and adequate energy production.

Yet, the environmental gains that we have made, we have reached a point where we can ask ourselves where our priorities lie and whether or not our overall best interests are furthered by devotion of significant resources to programs that have little substantial effect on the quality of the environment.

Most of the environmental groups that testified yesterday reserved judgment about your nomination until they have seen how you perform. I know from experience that these people aren't going to be satisfied with 90 percent of a loaf. So don't expect to get much credit for environmental improvements which will, I am sure, take place during your term in office. The fact is, I have to note that the environment is cleaner now than it was 2 years ago, but I would say it didn't do much good for your predecessor.

Let me give you some idea about what they are saying. If you adopt a position that percentage reduction requirements of the Clean Air Act should be repealed, the last time this was done the National Audubon Society announced that that proposal would kill 2,000 people in the western part of the United States. Yet, the purpose of percentage reduction really is not clean air. In fact, it was designed to prevent new powerplants from complying with new source performance standards by burning low sulfur western coal. So repeal of percentage reduction would be to the advantage of both the consumers and the environment, if utilities were allowed to use low sulfur coal and use scrubbing.

Percentage reduction is not a health issue, but that won't deter the environmentalists from telling the public it is. They are saying if you don't support at least an 8 million ton reduction in sulfur dioxide now, you are not committed to dealing with acid rain.

This legislation would launch perhaps the most expensive scientific experiment in history, with the eastern half of the United States picking up the tab, which some experts estimate to be as high as $2 to $3 billion a year. That might even be a worthwhile expenditure except no one really knows whether or not that enormous investment would produce any benefits at all. When the administration and this Senator took the position that it was prudent to insist that by committing ourselves to such an undertaking we should be reasonably certain that it would effectively solve acid rain, we were charged as advocates of dirty air.

So as I said earlier, I intend to support your nomination; and in fact, after what I have just said, maybe I should come out against you and that might help your nomination. I would be happy to do it either way because I will work for your confirmation. I think you can offer a great deal of confidence to the country that the EPA will have a good administration, and I hope that you will be able to bring, through your position, a thorough understanding of the Nation's environment and economic needs and a wisdom which would integrate both a strong and rational environmental policy. I think that it is a very responsible task you have undertaken. I appreciate your giving up your good life out in Washington State and coming back here to join us. I hope that you will be able to really bring some rationality to this whole question for the country's sake. It is a big job, and you certainly will have my support to that end.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Symms.

It has always been a source of pride to this committee that at least throughout the 11 years I have been a member of it, and somewhat before that, that the Senate Majority Leader has been a member of the committee. In fact, he was, at one time, the ranking member before this Senator became the ranking member. I am sure my colleagues will not object if at this point we recognize the majority leader, Senator Baker, for a statement he wishes to make.

OPENING STATEMENT OF HON. HOWARD H. BAKER, JR., U.S. SENATOR FROM THE STATE OF TENNESEE

Senator BAKER. Mr. Chairman, thank you very much.

I have two chairmen in this committee, the present sitting chairman and the present ranking minority member, who was the chairman for so many years while I served on and was active on this committee, Senator Randolph. I thank both of you for giving me this opportunity to speak out of sequence. I will do so very briefly.

I must say first, by way of explanation, that at 10:30 the Senate goes back in consideration of the budget resolution. While I have always prided myself on having a good and happy relationship with the Democratic minority in the Senate, I am always afraid if I am absent for very long they will unscrew my desk and carry it away. So I do appreciate the chance to go out of sequence and to have a chance to say a few words.

I have a confession to make. My confession is that I was among no doubt many others who urged Bill Ruckelshaus to accept this job when it was offered to him. I don't have the slightest regret about that nor apology, because my experience with Bill Ruckelshaus goes back even before the creation of the EPA. Senator Randolph will remember, and other members of the committee must know—as Senator Stafford will recall—that when Ed Muskie was the chairman of the subcommittee and I was the ranking member of that subcommittee and EPA was created, we had a long debate on what we were going to call it and what its functions and charter would be. Even at that time Bill Ruckelshaus was involved in shaping and forming what became a fundamental national commitment to the improvement of the quality of our environment, the birth of this Agency. He became its first Administrator.

I think all of us can look back on that era and be proud of the accomplishments in the initial charter and the initial implementation of that legislation under the guidance of Bill Ruckelshaus. So it was a matter of particular concern to me, indeed a great distress, when I saw EPA fall on evil days, at least in terms of the conflict that swirled around it, because it doesn't need that. It doesn't need that added to its burdens, which are significant enough. After it became clear that there would be, and was, a vacancy, as I said at the beginning, I took it upon myself to talk to the President of the United States about the possibility of enlisting Bill Ruckelshaus, who was once before in this job.

I hate to say it, I was not sure Bill was going to come back. He is in Washington State. He is in Seattle. He is doing a good job, as he does everywhere he goes, and maybe he doesn't want to come back to this jungle. But he has a high sense of responsibility, and I urged that we try. I am pleased, Mr. Chairman, and Mr. Former Chairman, to say that it gives me a great deal of pleasure to stand here as a witness for the great contribution Bill Ruckelshaus has already made and to express my unreserved confidence of the contribution he will make.

I thank you for the opportunity you have given me to appear here in support of this nomination.

Senator STAFFORD. Thank you very much, Senator Baker. We appreciate your being here. If you could stay longer, we would be glad to have someone go over and sit in your Senate seat for the time being.

Senator BAKER. I am constantly afraid someone will do that.

Senator STAFFORD. Senator Hart.

OPENING STATEMENT OF HON. GARY HART, U.S. SENATOR FROM THE STATE OF COLORADO

Senator HART. Thank you, Mr. Chairman.

Mr. Ruckelshaus, your presence is clearly welcomed here. I think there is little, if any, question about your qualifications or integrity. I suspect for many of us, however, the question of your nomination will rest more upon administration policies, White House intentions, where the long-term commitment to environmental quality is concerned, and it is along that line that I and I suspect others will want to proceed this morning. So I join with the others in welcoming you and look forward to your statement.

Senator STAFFORD. Thank you very much, Senator Hart.

Senator Durenberger.

OPENING STATEMENT OF HON. DAVE DURENBERGER, U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator DURENBERGER. Thank you, Mr. Chairman. My comments will be brief.

I would like to begin by congratulating the President on his choice of Mr. Ruckelshaus to be the new Administrator of the Environmental Protection Agency and to express my appreciation and the thanks of many of my colleagues on the Hill to the nominee for his willingness to serve in this most difficult job at this most difficult time.

When the appointment was announced some weeks ago, many of us wondered why Bill Ruckelshaus would even agree to accept the offer. He has already given a decade of his life to public service. A career that earned him high praise and distinction here in the Nation's Capital and across the country.

Why would Bill Ruckelshaus risk his good name to come back and run this EPA, work with this Congress and try to serve the public in this climate where dissension, division, and distrust are fundamental elements of the policymaking process?

There are some of us here who hope we know the answer. We hope that Mr. Ruckelshaus drove a hard bargain with the White House before he agreed to take this job. We hope that his charter as the new Administrator will give him wide latitude in matters of policy, budget, personnel, and regulation to restore the confidence of the American public in this Agency.

There is little question that the Senate will approve this nomination. But what we wish to confirm through these hearings is that he will be the Administrator of the Agency, largely free from interference by White House staff, budget analysts at OMB, attorneys at the Justice Department, or secretaries of other Cabinet departments.

There is much to be done. All the major statutes the Agency is charged to carry out need reauthorization in this Congress. The policy choices we face are clear. And the desire of the American public for environmental protection is clear, as well. The paralysis that we have suffered over the past 2 years has come from a lack of confidence in the willingness of the Executive to implement the policies mandated by the Congress. And no one should forget that policy—from acid rain to wetlands to toxic substances—policy is our responsibility, the responsibility of the Congress.

Mr. Chairman, I hope that other members of the committee share my concern. The message that we deliver through these hearings is not so much to Mr. Ruckelshaus as it is to his employer. The President has chosen an able Administrator for EPA. Now, we ask that he be given the resources and the latitude to accomplish the tasks that are set before him. A free hand to turn the Agency around.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Durenberger.

Senator Mitchell.

OPENING STATEMENT OF HON. GEORGE J. MITCHELL, U.S. SENATOR FROM THE STATE OF MAINE

Senator MITCHELL. Thank you, Mr. Chairman.

It is a pleasure, Mr. Ruckelshaus, to welcome you here today.

The occasion for which this hearing has been convened follows a trying and unproductive period in the history of Federal environmental policy.

Over the past many months, the relationship between the Congress and the executive branch has been adversarial with respect to the implementation of the environmental laws.

I will not dwell on the events of the past, but our experience can guide us as we approach the important task of revitalizing our Government's commitment to the protection of the environment.

Through the decade of the seventies, the Congress responded vigorously to emerging environmental problems. The laws we have enacted are evidence of a fundamental commitment that we, as a Nation, had to protecting our environment and our natural resources. These laws were not the result of a passing fad or of partisan politics. They respond directly to the intense concerns of the American people about pollution that causes injury, sickness, and death. They represent a deep commitment to leave to future generations the heritage of clean air, pure water, and unpoisoned land.

I emphasize, these are the laws of the land. It will be your sworn duty as Administrator of the Environmental Protection Agency to implement and enforce them. That is my greatest concern, and I know from the statements made earlier the concern of the other members of the committee, that you understand and commit yourself to the faithful and rigorous execution of the environmental laws of this country. That is not a discretionary duty, to be carried out if you or the President agree with the policies set forth in the law. The oath of office is but empty words unless accompanied by a commitment to action.

The one important action which you know from our previous discussions, in my view, will be your decision with respect to the EPA's budget. Since President Reagan took office, the EPA's operating budget has been cut drastically. If the President's fiscal year 1984 budget request is adopted, EPA's operating budget will have been cut by 30 percent during the tenure of this administration, 40 percent if adjusted for inflation. The budget reductions already enacted total nearly 25 percent. The result is that the EPA cannot, in my view, and I know there are others who do not agree, but in my view the EPA cannot carry out its statutory duties, even if it is led by an administrator with a commitment to do so.

The resources requested by the new Administrator will therefore be a clear indication of his will and, indeed, his ability to carry out his constitutional duty.

We are—by "we" I mean the Congress and the American people—fortunate to have a nominee of high integrity, a man of extensive experience and impressive credentials in the environmental field. Mr. Ruckelshaus has a record of involvement in issues to be carried out by him, which makes him unique. It is our obligation as a committee to examine his views and his record, and we will do so. But just as important, it is our responsibility to look to the future, to put the events of the past 2 years behind us, to restore this Nation's traditional bipartisan consensus in support of strong environmental laws.

To begin that effort we must obtain, and I know we will willingly obtain from Mr. Ruckelshaus, a commitment to uphold all of the laws, all of the time, for the good of all of the people.

Thank you, Mr. Chairman.

Senator **Stafford**. Thank you very much, Senator Mitchell.

Senator Humphrey.

Senator **Humphrey**. Mr. Chairman, I do not wish to make an opening statement.

Senator **Stafford**. Senator Baucus.

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator **Baucus**. Thank you, Mr. Chairman.

I too join in welcoming you, Mr. Ruckelshaus, back to the committee. I received your statement. I reviewed the record that you have established during your service as first Administrator of EPA from 1970 to 1973. As you know, several weeks ago I had the pleasure of spending some time with you discussing the situation at EPA. And yesterday I listened carefully to the testimony of representatives of well-respected national environmental groups on the nomination.

On that basis I feel confident that Mr. Ruckelshaus will receive the recommendation of the committee and confirmation by the Senate. His professionalism as an administrator and his personal integrity is a breath of fresh air for an agency that has been ravaged by 2 years of bungling mismanagement.

That does not, however, minimize the importance of this hearing. In fact, it simply clears the way for us to get down to business, to restore public confidence in EPA as an agency dedicated to protecting public health, not to maximizing private profits.

Along those lines, there are several questions that I would like to raise.

First, I am concerned that all the good intentions and the good will add up to nothing unless Mr. Ruckelshaus has been guaranteed the authority and independence necessary to carry out the mission of the agency. If EPA is shackled by OMB or the Cabinet Council on Natural Resources, the purge which has taken place at the agency in the last few months will have been nothing more than an exercise in blue smoke and mirrors.

Accordingly, I would like to know whether Mr. Ruckelshaus has discussed this issue with the President and what degree of independence he has been promised in dealing with environmental issues that he is charged with.

Second, under the guise of "trimming the fat," EPA has been hacked to the bone. The administration's budget request for fiscal year 1984 is 45 percent below fiscal year 1981 for abatement, control, and compliance. Similarly, the fiscal year 1984 research and development budget request is a full 55 percent below 1981.

Let's stop kidding around. Problems associated with air and water pollution, toxic substances, and hazardous wastes have not gotten 45 to 55 percent better in 3 years.

Therefore, my question is whether Mr. Ruckelshaus will seek the money needed to get the job done.

Along these lines, a third area of continuing concern is the deterioration of the research and development program at EPA. The program of the last 3 years has been based upon the idea that tomorrow may never come. Long-term investigation of threats to human health has virtually been abandoned. Heavy emphasis on industry research and development of control technology has been a poor substitute.

A specific example is the problem of air pollution from woodburning stoves and furnaces. Despite evidence of serious national pollution problems resulting from wood smoke and a million new wood stoves being sold each year, EPA has no effective program to address the problem.

This is but one example of the need for a revitalized research and development program. Reasonable regulation must be based on sound science. Therefore, I hope Mr. Ruckelshaus will outline his views on this aspect of the agency's work and the level of funding he will seek to support it.

Witness after witness, poll after poll have told this committee that the public strongly supports aggresive programs for environmental quality. With backing like that, Mr. Ruckelshaus can meet the challenge of pulling EPA off the rocks and setting it on a course of public trust once again.

Thank you very much, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Baucus.

Last shall not be least. Among one of the most important and influential members of this committee is Senator Domenici. We would be happy to recognize you at this point.

OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator DOMENICI. Thank you very much, Mr. Chairman. I am so far down here I don't have a microphone.

Senator STAFFORD. Senator, come up and use mine, if you would like to.

Senator DOMENICI. This is a good humbling experience for me.

Senator STAFFORD. I hope you don't hold it against us during the budget considerations.

Senator DOMENICI. We have taken good care of EPA in the budget that is on the floor.

Actually, so much has been said that I am at first tempted to say nothing. But I really can't because I am a very prejudiced Senator in this regard, and I make no bones about it.

I could probably far better be sitting where Senator Jackson and Senator Gorton are because he happens to be living in their State now, but this Senator happened to have the distinct privilege of being his neighbor where I lived with my eight children and he with his beautiful children for more time than he has lived in the State of the two distinguished Senators that are going to introduce him. So I open by saying I am going to vote for his confirmation.

I am prejudiced on his side, not just because of having been his neighbor for all those years but basically because I trust him. I trust his judgment. I trust his wisdom. And I trust his knowledge. Consequently, it is easy for me to say that I am prejudiced because I can't believe that Bill Ruckelshaus would have left a job to come back here, and I use the same word that our distinguished leader did, to this jungle, with all the problems that it will bring to him and to his beautiful family and his absolutely marvelous wife. If I wasn't already convinced that he has discussed every one of the issues that has been raised here in opening statements with the President of the United States, and if I wasn't already convinced that his good sense has solicited answers from the President that already answer all your questions, I cannot believe he would have taken this job unless he had already received a commitment from the President of the United States that he is going to run the EPA.

I would be absolutely surprised knowing his background, his understanding of the independence of the Environmental Protection Agency, the difficulty of administering it, and its relationship to the White House, if he had not already extracted from the President the ground rules that would permit him to leave his present job and take this one.

I am going to stay around as much as I can, even with the budget resolution on the floor which I am managing, to see if I am right or not as he answers those questions. Even if I am not here, I will be extremely surprised if he has not already laid those kinds of ground rules with the White House.

Finally, I have no doubt in my mind that if those ground rules are violated by the White House with reference to his running this agency, that his prior conduct should be living proof to this committee that he won't stay on and attempt to do the job that he is going to commit himself to do.

So it is my privilege as one who knows about him, as one who is his friend and neighbor, to welcome him here. I am absolutely confident that he will do the job better than anyone we could have selected in this country. I hope we get on with it, as I know the distinguished chairman intends to do.

Thank you very much, Mr. Chairman.

Senator STAFFORD. Thank you very much, Senator Domenici.

We are honored to have two of our distinguished colleagues here to introduce Mr. Ruckelshaus. Senator Jackson, do you care to go first?

STATEMENT OF HON. HENRY JACKSON, U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator JACKSON. Mr. Chairman, when a vacancy occurred in this office, I was queried by the press about Bill Ruckelshaus taking the position. I said at the time I can't believe that he would undertake this responsibility, and I said I don't think the country could be that lucky. I want to say that comment tells something about the man when he agreed to do that very thing, to take over a troubled agency. We are here this morning to pass on a nomination for that agency that is in trouble.

If I were to select someone in the current circumstances, I could not find, in my judgment, one more qualified, who has the respect of the people of this country, than William Ruckelshaus.

Immediately on both sides of the aisle was the feeling that at least there will be a restoration of confidence in the EPA. You know his record. You have his biography. He was an outstanding student at Princeton, went on to Harvard Law School, served in the State Legislature in Indiana, and undertook, during a very difficult period, some assignments in the executive branch that have made us all proud of Bill Ruckelshaus as a man.

As I look through his record, Mr. Chairman, there is a common thread that runs through his career. It is the thread of professionalism, of competence, of independence, of integrity, of intellectual honesty. It is an enviable record. We, in the State of Washington, his adopted State, are very proud of Bill Ruckelshaus. He has taken a keen interest in public affairs. He has not been a partisan in an unenviable sense. He has been a very decent human being. We are proud of his performance. I am glad to join with my colleague, Senator Gorton, in presenting him to the committee this morning.

After listening to all the accolades from the bench, if I were back in the practice of law, I would move for a directed verdict of approval.

Senator STAFFORD. Thank you.

We are very happy to have our former colleague on this committee back with us this morning. The chairman misses him, as a matter of fact. I particularly want to welcome you back here, Slade. We would be glad to hear from you.

STATEMENT OF HON. SLADE GORTON, U.S. SENATOR FROM THE STATE OF WASHINGTON

Senator GORTON. Thank you, Mr. Chairman, and other friends and colleagues on the Committee on Environment and Public Works.

It is a special privilege for me that my initial appearance before the committee since my abandoning it as a member should be to introduce my friend, Bill Ruckelshaus.

I met Bill in 1969, shortly after I took office as attorney general of the State of Washington. At that time he was new to Washington, D.C., as an Assistant Attorney General of the United States. Since then our paths have crossed professionally, politically, and socially—as a result of which I am greatly honored to call him a friend.

It was during the early 1970's and from a considerably more remote vantagepoint than the one which I occupy now that I noted, with much approval, Bill's genius in getting the fledgling Environmental Protection Agency off to a fine start. It is perhaps in part that performance and the legacy of competence and pride in the Agency which he left behind him that has accentuated some of the inadequacies and misjudgments so prevalent in the Agency's administration during the past 2 years or so.

Like so many others, I thrilled at the courage and integrity which Mr. Ruckelshaus demonstrated on a Saturday night, which is now one of our American historical legends.

When Bill left Washington, D.C., for Seattle, Wash., he left behind him one of the finest and most distinguished public service careers imaginable. That is, of course, the highest and best qualification which he or which anyone could present to you at the time of this confirmation hearing.

Although Bill is not a native of Washington State, in fact there is only one native of Washington State at this table here this morning, he has made an immense contribution to his adopted community. His service in the private sector was successful, thoughtful, and greatly distinguished.

He is a member of the board of regents of the Seattle Regency, the board of the Puget Sound Law School, advisory board of the Institute for Environmental Studies of the University of Washington, and the Committee of the Graduate School of Public Affairs at that university. He is also a board member of the Pacific Science Center and on the board of the Seattle Chamber of Commerce, a member of the board of trustees of the Seattle Art Museum. That list goes on and on. I will not spend any more of the committee's time on it. I will simply note that it is another example of the way in which he participates in any community or any assignment which he takes on.

These are only episodes, however, which give us a glimpse at the character of a man which many of us have been privileged to know on a more personal basis. I can say, Mr. Chairman, the longer the time I have known Mr. Ruckelshaus, the greater my admiration for him.

Senator Domenici mentioned his marvelous and wonderful family, and that reminded me that there are at least some who have spoken to me here in Washington, D.C., who feel that the primary benefit of having Bill return to EPA is that some of us will get to see more of Jill Ruckelshaus.

Members of the committee, I applaud the President's choice of William Ruckelshaus as a person to restore the public's confidence in the Environmental Protection Agency. I look forward to the end of the polarization which has characterized the discussions of environmental issues. In my opinion, there is no person more qualified to lead us into a period of productive dialog on the serious issues with which we must deal than Bill Ruckelshaus.

Senator STAFFORD. Thank you very much, Senator Gorton. The committee really appreciates your being here, and Senator Jackson. We know you may have other committees to attend. We understand if you leave.

I would say to the nominee, you have been properly introduced, but before you deliver whatever statement you wish, the chair wishes to recognize Senator Simpson, who has come in and who is a very valuable member of this committee, for a brief opening statement.

We also will place in the record a statement from Senator Quayle.

OPENING STATEMENT OF HON. ALAN K. SIMPSON, U.S. SENATOR FROM THE STATE OF WYOMING

Senator SIMPSON. Mr. Chairman, I thank you. I will submit my statement for the record and make a few brief remarks.

Senator SIMPSON. I have come to know Bill Ruckelshaus as an able, constructive, thoughtful, and bright person. You are certainly coming into the arena once again. I guess what I would say to you is good luck once again. Welcome to the pits of clamoring Congressmen and noted nitpickers and jaundiced journalists and craft staffers and lobbyists and low-flying and silent missiles that seem to seek out and create their own targets which are always sensitive to heat but impervious to light.

I wish to you a tenure of more light than heat. Good to have you, Bill.

[Senator Simpson's and Senator Quayle's statements follow:]

REMARKS OF SENATOR ALAN K. SIMPSON
FOR RUCKELSHAUS HEARING

MR. CHAIRMAN, I AM PLEASED TO BE HERE TODAY. BILL RUCKELSHAUS CERTAINLY HAS A TOUGH, DEMANDING AND CHALLENGING JOB AHEAD, BUT I AM CERTAIN HE WILL RISE TO THIS CHALLENGE. BILL RUCKELSHAUS BRINGS TO THIS ARENA -- ONCE AGAIN -- A WEALTH OF GAINED EXPERIENCE AND EARNED KNOWLEDGE THAT SHOULD ENABLE HIM TO CARRY OUT THAT PRECARIOUS JUGGLING ACT THAT WE HERE CALL "PUBLIC POLICY".

THE TASK OF EPA ADMINISTRATOR NECESSARILY REQUIRES ONE WITH HIGHLY DEVELOPED ADMINISTRATIVE SKILLS. MR. RUCKELSHAUS HAS PROVEN THAT HE HAS THESE SKILLS TO BE A FINE AND CAPABLE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY. IT IS ALSO GOOD WHEN THE ADMINISTRATOR HAS COMMON SENSE. HE DOES. ANOTHER ATTRIBUTE THAT AN ADMINISTRATOR SHOULD HAVE IS THE ABILITY TO DEAL WITH VARIOUS AND DIVERSE INTEREST GROUPS -- SOME QUITE RINGY! I AM CONFIDENT THAT BILL RUCKELSHAUS WILL MAKE HIMSELF ACCESSIBLE.

I BELIEVE BILL RUCKELSHAUS HAS SHOWN AND WILL CONTINUE TO SHOW A REAL WILLINGNESS TO MEET WITH AND TALK TO AND TO LISTEN TO THOSE IN BOTH THE ENVIRONMENTAL AND THE BUSINESS COMMUNITIES.

BILL RUCKELSHAUS HAS SHOWN A DESIRE TO COMMUNICATE AND COOPERATE WITH ALL INTEREST GROUPS AND I WOULD CALL ON THE BUSINESS COMMUNITY AND THE ENVIRONMENTAL INTEREST GROUPS ALIKE TO CREATE A NEW AND FRESH RELATIONSHIP WITH BILL RUCKELSHAUS, A RELATIONSHIP BASED UPON THE PRESENT AND THE FUTURE -- A RELATIONSHIP WHICH THE AMERICAN PEOPLE WILL GREATLY BENEFIT FROM.

LAST FALL THERE APPEARED AN EDITORIAL IN THE WASHINGTON POST BY THE DIRECTOR OF ENERGY AND ENVIRONMENT IN THE WASHINGTON OFFICE OF THE NATIONAL AUDUBON SOCIETY. IT IS A DANDY. LET ME READ YOU JUST A FEW SENTENCES EXTRACTED FROM THE ARTICLE ENTITLED, "BUSINESS AND ENVIRONMENTALISTS: A PEACE PROPOSAL".

"ENVIRONMENTAL GROUPS ARE NOT PERFECT. WE HAVE FLAWS, AS DOES BUSINESS. BY CANDIDLY EXAMINING THE FLAWS ON BOTH SIDES WE MAY BE ABLE TO DIFFUSE THE DESTRUCTIVE ANIMOSITY AND MUTUAL

MISUNDERSTANDING -- AND EVEN MAKE COMMON CAUSE. LET ME FIRST FOCUS ON THE WEAKNESS, BOTH REAL AND PERCEIVED, OF THE ENVIRONMENTALISTS. ONE OF OUR PROBLEMS IS THAT WE TEND TO ASSUME A TONE OF ARROGANCE WHEN TALKING TO BUSINESS -- THIS TENDENCY IS MATCHED BY A TENDENCY TO BE RIGID, UNWILLING TO COMPROMISE OR NEGOTIATE. ENVIRONMENTALISTS SOMETIMES ARE AFRAID TO BEND OR BE FLEXIBLE. ENVIRONMENTAL GOALS SHOULD NOT BE PERCEIVED WITHOUT REGARD TO THEIR CONSEQUENCES ELSEWHERE: PRESERVING WILDERNESS IS IMPORTANT, BUT IT IS ONLY ONE OF A NUMBER OF IMPORTANT NATIONAL GOALS. FOR EXAMPLE, ENERGY POLICY SHOULD NOT BE BASED ON ENVIRONMENTAL VALUES ALONE." I FIND THAT LAST SENTENCE PARTICULARLY FASCINATING IN LIGHT OF THE DISCUSSION THAT HAS OCCURRED DURING THE PAST FEW DAYS IN REGARD TO A LETTER BILL RUCKELSHAUS SENT TO VICE PRESIDENT BUSH WHICH DISCUSSES THE "CLEAN AIR ACT" -- BUT LET ME CONCLUDE THE ARTICLE. "AND FINALLY, ENVIRONMENTALISTS, LIKE OTHER HUMAN BEINGS CAN SUFFER FROM PAROCHIALISM. WE VORACIOUSLY CONSUME EACH OTHER'S NEWSLETTERS BUT TEND TO NEGLECT BUSINESS WEEK, FORBES AND FORTUNE."

OF COURSE, THE ARTICLE GOES ON TO DEFTLY CRITIQUE THE BUSINESS COMMUNITY AS WELL, BUT I FIND THE QUOTED OBSERVATIONS VERY INTERESTING IN THE CONTEXT OF THESE CONFIRMATION HEARINGS. THERE IS MUCH TALK OF THE EVILS OF "COST BENEFIT" ANALYSIS OR RISK ASSESSMENT, YET ALL OF US IN OUR EVERYDAY DECISIONS INCLUDE THESE ANALYSES IN OUR DAILY THOUGHT PROCESSES. IN ALMOST EVERY PUBLIC POLICY DECISION THE DECISION MAKERS MUST WEIGH AND RENDER ACCOUNTING OF THE COSTS AND THE BENEFITS. TO DENY THIS IS REAL WORLD FOLLY.

EVEN THOUGH THE CLEAN AIR ACT HAS NOT BEEN RADICALLY AMENDED. THIS DOES NOT MEAN THAT EVERYTHING IN THE LAW IS CORRECT OR EFFECTIVE. THE MOST NOTICEABLE EXAMPLE THAT I MIGHT GIVE REGARDING THE CLEAN AIR ACT IS THE PERCENTAGE REDUCTION REQUIREMENT. IF NOTHING ELSE, THE CLEAN AIR ACT SHOULD CAREFULLY AND PERIODICALLY BE REEXAMINED, AS THIS COMMITTEE HAS DONE NEARLY EVERY YEAR, IN ORDER TO DETERMINE IF ANY EXISTING PARTS OF THE LAW IMPEDE THE REPLACEMENT OF OLDER, MORE POLLUTING FACILITIES BY NEW CLEANER ONES. WHAT WE FIND IS THAT PERCENTAGE REDUCTION REQUIREMENT DOES JUST THAT -- IT IMPEDES THE REPLACEMENT OF THE OLDER, MORE

POLLUTING FACILITIES BY THE NEWER AND MORE EFFICIENT ONES. THE PERCENTAGE REDUCTION REQUIREMENT GOES AGAINST THE VERY TENETS OF THE CLEAN AIR ACT. THE CLEAN AIR ACT SEEKS TO DEVELOP NEW ECONOMIC GROWTH INTO PROGRESS FOR CLEAN AIR. SENATOR ED MUSKIE STATED THAT IT IS "THE ANTICIPATION OF GROWTH WITH WHICH THE ACT IS CONCERNED." TO THE EXTENT THAT THE PERCENTAGE REDUCTION REQUIREMENT SUBSTANTIALLY INCREASES THE COST OF NEW CONSTRUCTION, AND CREATES AN INCENTIVE TO CONTINUE OPERATING THE OLDER AND LESS EFFICIENT FACILITIES THAT ARE THE MAJOR SOURCES OF POLLUTION THEN IT HAS FAILED. THE PERCENTAGE REDUCTION PROVISIONS OF THE CLEAN AIR ACT ARE ONLY BUT ONE EXAMPLE WHERE CHANGES ARE LEGITIMATELY NEEDED.

BILL RUCKELSHAUS' RECENTLY PORTRAYED OBSERVATIONS ON THE CLEAN AIR ACT ARE CENTERED AROUND A LOGICAL APPROACH TO REGULATION. I DOUBT VERY STRONGLY THAT BILL RUCKELSHAUS WOULD WISH TO DO ANYTHING THAT WOULD NEGATIVELY IMPACT ON THE PUBLIC HEALTH AND GENERAL GOOD. WE MUST GIVE BILL RUCKELSHAUS A CHANCE TO PURSUE A LOGICAL APPROACH TO REGULATION. CERTAINLY ALL OF US WILL NOT AGREE

WITH ALL THAT BILL RUCKELSHAUS DOES DURING HIS TERM AS ADMINISTRATOR. HOWEVER, THERE IS ONE THING THAT I FEEL WE CAN BE CERTAIN OF -- AND THAT IS THAT BILL RUCKELSHAUS WILL MAKE REGULATORY DECISIONS BASED ON THE BEST SCIENTIFIC EVIDENCE AVAILABLE TO HIM AND THAT HE WILL TAKE INTO ACCOUNT -- AS HIS PRIMARY RESPONSIBILITY -- THE HEALTH AND WELFARE OF THE PEOPLE OF THE UNITED STATES.

I AM MOST PLEASED TO HEAR OF THE HIGH IMPORTANCE THAT HE ATTACHES TO A FLEXIBLE, RATIONAL APPROACH TO THE REGULATION OF RISK -- AN APPROACH THAT, AS I PERCEIVE IT, CONSISTS OF A CAREFUL ASSESSMENT OF THE RISKS POSED BY A GIVEN ACTIVITY, SUPPORTED BY CREDIBLE SCIENTIFIC SUBSTANTIATION, TOGETHER WITH AN IDENTIFICATION OF THE COSTS THAT WILL BE INCURRED TO REDUCE THAT RISK.

IN FACT, THIS VERY APPROACH IS ONE THAT THE 97TH CONGRESS ADOPTED IN THE AREA OF URANIUM MILL TAILINGS REGULATION -- INSTRUCTING EPA TO BASE ITS GENERAL ENVIRONMENTAL STANDARDS FOR ACTIVE AND INACTIVE SITES UPON A CAREFUL ASSESSMENT OF NOT ONLY THE

RISKS FROM THESE SITES, BUT ALSO UPON AN EVALUATION OF THE COSTS THAT WOULD BE INCURRED TO REDUCE THAT RISK.

IT IS ONLY AS A RESULT OF A THOROUGH EXAMINATION OF THE COSTS AND THE BENEFITS OF ANY PROPOSED REGULATION THAT WE CAN HOPE TO BRING SOME SEMBLANCE OF ORDER TO THE REGULATION OF THE WIDE RANGE OF ACTIVITIES OVER WHICH EPA HAS JURISDICTION.

IN ADDITION TO MY GENERAL SUPPORT OF THIS APPROACH IN ALL AREAS OF EPA REGULATION, I SHOULD NOTE THAT, IN MY ROLE AS CHAIRMAN OF THE SUBCOMMITTEE ON NUCLEAR REGULATION, I THINK THIS APPROACH HAS SHOWN TO BE OF REAL BENEFIT AND, IF APPLIED IN A DISCIPLINED FASHION, WILL SERVE TO BRING AN EVER RENEWED DEGREE OF ORDER TO THOSE STANDARDS WITHIN EPA'S JURISDICTION THAT RELATE TO NUCLEAR ACTIVITIES. IN PARTICULAR, STANDARDS FOR ACTIVE AND INACTIVE URANIUM MILL TAILINGS SITES AND STANDARDS RECENTLY PROPOSED BY EPA FOR THE REGULATION OF EMISSIONS OF RADIONUCLIDES UNDER THE CLEAN AIR ACT, IF EXAMINED UNDER THE APPROACH THAT YOU HAVE SUGGESTED, WOULD ENSURE THAT THE AGENCY'S LIMITED RESOURCES WILL BE DEVOTED TO THE REGULATION OF SIGNIFICANT RISKS, AND I ENCOURAGE YOU TO REVIEW THESE STANDARDS WITH THE METHODOLOGY THAT YOU HAVE SO

PERSUASIVELY REPORTED AND SUPPORTED.

FINALLY, LET ME SAY ONLY A FEW WORDS CONCERNING THE QUESTION OF CONFLICTS OF INTEREST. BILL RUCKELSHAUS HAS PLEDGED TO RECUSE HIMSELF FROM ANY PARTICULAR REGULATORY OR ADJUDICATORY MATTER IN WHICH HE WAS INVOLVED AT WEYERHAUSER, AND I THINK THAT IS MOST APPROPRIATE. I DO CONCUR -- OCCASSIONALLY -- WITH RICHARD AYRES OF THE NRDC THAT EVEN THE APPEARANCE OF IMPROPRIETY OR CONFLICT OF INTEREST SHOULD BE AVOIDED. AT THE SAME MOMENT I DO NOT FEEL THAT WE SHOULD HAVE A TOUGHER CONFLICT OF INTEREST STANDARD FOR A LAWYER WHO HAS WORKED FOR INDUSTRY THAN FOR A LAWYER WHO HAS REPRESENTED AND WORKED FOR AN ENVIRONMENTAL GROUP. DAVID HAWKINS, ASSISTANT ADMINISTRATOR FOR AIR, NOISE AND RADIATION IN THE CARTER ADMINISTRATION, WORKED AS AN ATTORNEY FOR THE NRDC AND LOBBIED EXTENSIVELY ON CLEAR AIR ACT ISSUES BEFORE THE CONGRESS AND THE EPA BEFORE HIS APPOINTMENT. WHILE HAWKINS WAS ASSISTANT ADMINISTRATOR, NRDC PARTICIPATED IN VIRTUALLY ALL MAJOR RULEMAKINGS INVOLVING THE CLEAN AIR ACT, BUT HE

HAD PERSONALLY HANDLED, NOT IN ALL CASES IN WHICH NRDC PARTICIPATED. I SEE NO REASON BILL RUCKELSHAUS SHOULD BE HELD TO A MORE RESTRICTIVE STANDARD THAN THE ONE WHICH PREVIOUSLY APPLIED TO DAVID HAWKINS.

GOOD LUCK!

WELCOME AGAIN TO THE STYGION PITS OF CLAMORING CONGRESSPERSONS -- NOTED NIT PICKERS -- JAUNDICED JOURNALISTS -- CRAFTY STAFFERS LACHRYMOSE LOBBYISTS -- AND LOW FLYING AND SILENT MISSILES THAT SEEK OUT AND CREATE THEIR OWN TARGETS THAT ARE ALWAYS SENSITIVE TO HEAT BUT RATHER IMPERVIOUS TO LIGHT.

I WISH TO YOU A TENURE OF MORE LIGHT THAN HEAT!

STATEMENT BY
SENATOR DAN QUAYLE
ON THE NOMINATION OF
WILLIAM D. RUCKELSHAUS
TO BE ADMINISTRATOR OF
THE ENVIRONMENTAL PROTECTION AGENCY

MAY 4, 1983

Mr. Chairman. I am pleased for this opportunity to lend my support to the nomination of William D. Ruckelshaus as administrator of the Environmental Protection Agency.

Bill is a native of my State of Indiana. He has served the people of Indiana with great distinction in several capacities. Bill served as Indiana's deputy attorney general from 1960 to 1966 and as a member of the Indiana House of Representatives. As a freshman member in 1967, Bill was elected, without opposition, as the majority floor leader. Such an honor gives recognition to the character and dedication that he brings to any position.

I am pleased that President Reagan has tapped my Hoosier friend for a second stint as EPA Administrator. Bill earned high marks during his tenure at EPA at the birth of that agency. Now that the child is going through growing pains, Bill is needed to restore confidence and credibility at an agency which has crumbled in recent months. His reputation for integrity and independence will be a great asset in restoring confidence in fulfilling the Congressionally-mandated goals of the EPA for maintaining a healthful environment.

President Reagan said of Mr. Ruckelshaus on announcing his appointment, "He is staunchly committed to protecting the nation's air and water and land, and I have given him the broad, flexible mandate he deserves. Bill Ruckelshaus will have direct access to me on all important matters affecting the environment. I've also authorized him to conduct an agency wide review of the personnel and the resources to ensure that the EPA has the means it needs to perform its vital function."

I am extremely pleased that President Reagan has given Bill an open door to the White House. The Administration needs to be directly interested in our environmental needs; they are as deserving of White House attention as are our economy, the Middle East, and defense policy.

Bill will bring to the EPA the experience of one who has had everyday workings with complying with our environmental laws. He knows of their complexity, their cost, and their benefits to a healthful environment. As a nation, we have made great progress in achieving a clean environment since the time that Bill first took reigns of the EPA. As a nation, we should be proud of this accomplishment. However, many major pieces of environmental legislation, some the cornerstone of our policies for the last decade, have authorizations which have expired and are in need of Congressional attention. Congress placed expiration dates on these authorizations for a purpose, to force a review of the law to see how it is working, to see where it needs strengthened, to see where the law is not achieving its purpose because it is too complex or the technology is not available at an affordable price. One of Bill's tasks will be to work with Congress in addressing these areas which desperately need our review and consideration.

Bill said at the Presidential news conference announcing his nomination that "...my immediate task is to stabilize the EPA, to re-instill in the people there the dedication to their tasks, their jobs, they had from the outset, and to get on with this enormously complicated job of cleaning up our air and water and protecting our citizens."

Bill could not have hit the nail more solidly on the head, the job is enormously complex. It will not be an easy job. I urge the Committee to favorably report the nomination so that we can go to work as soon as possible on the problems that confront us. Bill has my best wishes and I look forward to working with him in the months ahead.

Senator STAFFORD. Thank you very much, Senator Simpson.

Mr. Ruckelshaus, we would be glad to hear your statement.

STATEMENT OF WILLIAM D. RUCKELSHAUS, ADMINISTRATOR-DESIGNATE, ENVIRONMENTAL PROTECTION AGENCY

Mr. RUCKELSHAUS. Thank you very much, Mr. Chairman and members of this committee.

I appreciate very much those kind comments that many of you have made in your charge to me to take my new assignment seriously. I watched these committee proceedings yesterday on television, and I must confess I had a sense that I was witnessing my own lynching. Here this morning, I have a sense in part that I have been at my own funeral.

Somewhere in between, I am sure, lies the real me.

Twelve years ago I appeared before this same committee and I asked the members to recommend that the full Senate confirm me as the first Administrator of the Environmental Protection Agency. I am today asking the committee to repeat its earlier vote of confidence.

The committee has amassed more information about me than I knew existed 6 weeks ago. You have all my financial data, my personal recusal statement, my work history, and virtually everything I have said, written, or thought about the environment or public health for the last 12 years. You even have every personal letter I have been able to find in my files relating to the job of Administrator of EPA, and all of this information has been furnished by me or at my direction by the organizations with which I am affiliated.

Mr. Chairman, I am about to note in passing the personal letters that the committee has. When the President announced his intention to nominate me some 6 weeks ago, I told my staff at Weyerhaeuser and elsewhere to cooperate with the committee fully, to give them anything they wanted. I gathered all of the speeches, testimony, articles that I had written. I even gathered all my personal correspondence, and I gave all that material to my staff and told them to give it to the committee. It never occurred to me, frankly, that the Committee would want my personal correspondence, but it was requested and turned over to the committee by my staff.

I didn't realize that this had happened until last Friday. By way of explanation, Mr. Chairman, of a letter that I wrote to you on Thursday enclosing some of the correspondencee that had appeared in the New York Times, I indicated to you I didn't know where it was coming from. On Friday, a member of my staff brought up the bundle he had sent and he was very proud of the fact that he had followed my instructions and turned everything over to the committee. That is how it happened.

I did find over the weekend some mention of the environment in a couple of letters that I sent to my mother which I would be glad to turn over to the committee.

She, like some other members of this committee, had a question about judgment in returning. She asked me on the phone how I could possibly take a job 10 years later in which I was not getting a promotion.

I told her she wouldn't want to hear the whole thing.

Well, I don't believe it is possible, Mr. Chairman, for this committee to know any more about me than you now do. What you see is really what you get. I will, of course, answer any questions that you might have regarding the material that I have given you, and I would respond to any questions that might have arisen at the hearing yesterday.

In this statement I will not dwell on the record before you but instead will tell you what I plan to do if confirmed, how I intend to do it and what I hope to accomplish my second time around.

Before I start, let me make clear my personal perception of the issues the EPA was created to address. To the American people, protection of public health and our national environment embodies a terribly important and enduring set of values. The survey data I have seen and my own experience strongly indicate that Americans feel more deeply committed to the protection of public health and the environment than any people on earth.

Our country, acting through Federal, State and local governments over the past two decades, has translated that commitment into a massive network of laws and regulations to protect the health of our people, the air, water and earth that they all share. As these laws attest, the debate in this country over whether we are going to protect public health and our environment has long since ended.

I completely share our Nation's commitment to the values of public health and the environment. Since first coming to EPA in 1970, I have participated in the national dialog about how to translate those values into achievable goals. I intend, while at EPA, to continue to participate, and if confirmed, many of the same arguments I have made in the past whether in or out of the government.

Now, if I am confirmed, what do I plan to do? I discussed the nature of the Administrator's job with the President and his immediate staff before he asked me to serve. We agreed that people and resources to do the job were essential ingredients of success.

My first priority will be to recruit the best people I can find to manage the agency. I am gratified that in the last 6 weeks, there have been literally thousands of offers to help. Many have come from people who were there before who have proven themselves under fire and who are willing to disrupt their lives to help their country.

I am confident that from that group and others a superior group of people can be assembled.

As to the resources to do the job, it will be a very high priority of mine to review the existing budgetary ceilings to see if additional money or people are needed to carry out the mandate of Congress. If I conclude we need more help, working with the administraion, we will submit an amended 1984 budget request and supplemental 1983 budget request consistent with the 1984 amendments.

Many of you have expressed an interest in whether I intend to request additional budgetary authority or whether I will seek policy changes on virtually every program area the agency administers. These questions are hard, if not impossible, to answer in the abstract, and many of them I simply cannot properly respond to until I have a chance to review the policies and program needs in more detail.

I can offer some guidance on what I now see as high-priority issues. Much has been said and written in criticism of EPA's enforcement policies. The questions seem to focus on three aspects of enforcement. The will, capacity and organization.

As to will, let me disabuse anyone who believes EPA, while I am there, will not have the requisite determination to enforce the laws as written by Congress. The environmental laws of this country were passed by Congress and were meant to be taken seriously by the administering authorities. I do take the Congressional charge seriously, and if I am confirmed, EPA will take that charge seriously.

We will enforce the laws of this country. We will be firm, and we will be fair. We must never forget that in a time of high emotion such as we now face where the public interest demands fairness in the enforcement of our law, the public good mirrored in the Bill of Rights demands that due process not be abandoned. The EPA I head will adhere to both principles.

I have asked the people now at EPA for a review of both the capacity to enforce, which is a resource question, and the organization of the enforcement function, which is a management question. I have had a preliminary response to both questions but have come to no final conclusions as to what makes the most sense for the agency.

The whole issue of toxic substances, as some of you have already mentioned, is of much greater prominence than when I was first at EPA. The law to regulate pesticides, FIFRA, was already enacted. There were provisions in the Clean Air Act and Clean Water Act that related to toxic substances, but only since I left has EPA established the basic structure to control the manufacture, distribution, use and ultimate disposal of toxic substances.

In the last 6 weeks, I have seen in the press that the number of problems, this has had an impact on me. Mr. Chairman and members of the committee, I had some feeling for the scope of this problem, but nothing like I received in the last 6 months by reviewing the clippings that EPA gets from all over the country relating to toxic substances. I have seen that the number of problems surfacing all over the country relating to toxic substances and toxic chemicals is truly staggering.

We have in place a complex set of laws and regulations to deal with the toxic substance problems. I certainly have no preconception whether these laws or regulations or the resources we have committed to their implementation are adequate. I do know that wise and aggressive implementation of these laws must be a very high priority of mine, and it will be.

There are other matters which will immediately demand my attention such as the reauthorization of most of the organic laws of EPA—8 out of 10 have expired—along with specific issues such as acid rain.

Last and certainly not least, I will make a concerted effort to harness the energies and the talents of the people at EPA toward the Agency's mission.

EPA's greatest resource today is the same as when we started: It's people. Mr. Chairman, when EPA was created in 1970, in the first 45 days of its existence, we received 250,000 applications for jobs from all over this country. That was an expression that was impressive to me at the time of the concern of the people of this country about the environment, and as best I can tell, that concerns has not diminished since.

If these people there are trusted, if they are included in and given clear guidance as to what is expected of them, they will perform to a very high standard. I will work hard, and they will work hard toward our common objective.

To carry this message of trust and reliance forward, I intend to personally visit and talk to as many people at EPA here and in the 10 regions and laboratories in the first few weeks after confirmation.

That is what I intend to do. How am I going to do it? In my judgment, it is important for this committee's deliberations to know what I intend to do. It is also important to know how I will do it.

The charges currently lodged against some of the people of EPA focus primarily on abuse of process. There are many policy differences, but the main allegations concentrate on the way the existing laws are administered. Without commenting on the substance of those charges, this committee should know how I intend to operate.

The existing laws will be administered as written. I will continue to bring to this committee's attention recommendations for change where I believe change is warranted, but in the meantime, ours remains a Nation of laws and not of men, and the laws will remain supreme.

As I did before when I was there, I will do now, and that is, operate EPA as honestly as I know how. There will be no hit list. There will be no "Big P" political decisions, there will be no sweetheart deals. We will attempt to communicate with everyone from the environmentalists to those we regulate, and we will do as openly as possible.

Mr. Chairman, I have already directed that my staff attempt to prepare—assuming this body confirms me—to prepare some guidance for how we will communicate so that it will be clear to everyone exactly how this communication can take place, and it will be as open as we know how to make it.

I will seek the best advice I can get on how to deal with the terribly complex problems EPA must confront. I will seek help from scientists, from environmentalists, from economists, from industrialists and from the general public. I hope to engage former administrators of EPA in a constant dialogue to take advantage of their collective wisdom.

Lastly, I hope to engage this committee—and I know, Mr. Chairman, every Committee that ever confirms anybody, and this body hears the same pledge made by the person they confirm, but I am going to do the best I can to live up to this pledge. I hope to engage this Committee, this Committee's staff and other committees of Congress and their staffs in a joint effort to improve our Nation's ability to respond to the mission of health and environmental problems facing EPA.

Recognizing the important oversight function that Congress must play, a better dialogue and increased trust between the legislative and administering authorities in this area will be a high priority of mine.

In the past weeks, I have given a good deal of thought to what I would like to do at EPA, what goals I would set for myself, what I would like to accomplish, and I thought it might be well to share with this committee at least my preliminary thoughts about those goals. First and foremost, the American people need to believe that the agency charged with protecting so many aspects of their health and their natural environment is staffed with first-rate people doing their very best. The problems EPA confronts are hard ones. Some of these problems just defy solution. Throughout, from the definition of the problem to its solution, the agency must deal with enormous scientific uncertainty. It often must act before it is clear what the optimum solution would be.

To function at all in such uncharted waters, the American people must trust EPA's motivation and ability. To insure that necessary trust will be a prime objective of mine.

I will endeavor to instill in the employees of EPA a sense of mission and dedication to excellence. I will try to convince them that EPA's mission must be carried out by people who recognize they are servants of the public and not their masters and by people who are as dedicated to fairness and civility to others as to excellence in themselves. An agency steeped in this tradition is a legacy to which I will aspire.

I will attempt to put a management system in place that can meet our goals effectively and efficiently. To accomplish this, EPA and all its elements must first understand our mission and objectives so we know what we are managing toward.

Most of EPA's mission and objectives are defined by statute. I would hope, working with the Congress, to create for the country a more effective legal framework to attain our goals. As I have stated, my obligation as an Administrator is to faithfully execute the laws of the country. In the process of such execution, I will seek to evaluate the impact of the law on both the intended and unintended targets.

Where I think we can lessen the effect on the unintended target without sacrificing our objectives, I will recommend change to the Congress. I did this at EPA before, and I will do it again.

As part of my effort to improve our legal framework, I intend to address the question of the role that the various levels of government play in administering our environmental and health laws.

Too much time is spent by one level of government overseeing the work of the other. With a more clear definition of understanding of who is supposed to do what and who pays for it, we could eliminate much of the public and private frustration over environmental laws. That is a tall order in our Federal system, but with a joint effort by the EPA, the Congress, and the States, more clarity and less redundancy is possible.

I will work toward gaining greater public comprehension of the complexities of managing risk in a free society. I also hope to enlist the scientific community in a more aggressive participation in the public dialog. In my view, the public needs to hear more of what the Administrator of a place like EPA hears regarding scientific uncertainty if they can be expected to support sound public policies.

I will work particularly hard to foster a better dialog between government and environmentalists and the regulated industries. The endless public and private acrimony that surrounds the mix of problems before EPA deflects energy, saps resources, and is ultimately debilitating to the whole effort. Over the last several years, I have become convinced that as Americans, we must first remember we all share this geography of our country, if we are to convince the rest of mankind that we must share and conserve the geography of our planet.

I have other goals regarding such things as developing new and accepted ways of measuring progress against our environmental and health goals and fashioning effective long-term strategies for controlling toxic substances.

I could go on, but accomplishing even a fraction of these objectives will be task enough. I will welcome suggestions from this committee regarding the what and how of my hopes.

I did not seek this job. But having decided to accept it, I am energized and excited by the challenge. If confirmed, I pledge to this committee and to the American people to do the best I can as long as I'm there.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you very much, Mr. Ruckelshaus, for your excellent opening statement.

I have conferred with Senator Randolph, and we would propose to our colleagues on the committee that we limit ourselves in the first round to 10 minutes per member for questions.

There will be as many rounds as necessary to satisfy all members of the committee. Questions which they wish to addres to Mr. Ruckelshaus will be addressed to him, and he will have a chance to respond to them. Is there objection to following that procedure?

[No response.]

Senator STAFFORD. I hear none, and that being the case, we will start. Again, Senator Randolph and I have conferred, and we would like to propose continuing the hearing today until 1 o'clock, at least, and then starting again at 10 o'clock tomorrow morning and running as long as necessary to see that the members are satisfied in connection with questions and answers.

Is there objection to following that procedure?

[No response.]

Senator STAFFORD. Before going to questions, the Chair is delighted to see that Senator Moynihan, a most valuable member of this committee, has joined us.

Senator Moynihan, do you have any opening statements that you would like to make? We would put them in an appropriate place in the record for you.

Senator MOYNIHAN. I would like to welcome my old friend, Mr. Ruckelshaus. We were together at the time of the drafting of the Executive order which created the EPA and which is still its basis. We welcome you back, sir. May I be the first to congratulate you on a superb opening statement.

Senator STAFFORD. Mr. Ruckelshaus, in my opening statement, I alluded to the fact that some decisions are entrusted by law to the Administrator of the Environmental Protection Agency and to no other person. It has long been the collective view of this committee that there are some decisions which even the President himself cannot make, even though the Administrator is a Presidential appointee. One example is the requirement of the Clean Air Act that the Administrator establish the ambient standards for air pollutants. I would like to ask you some questions regarding your view of the Administrator's independence in the administration as well as what assurances you have received, and from whom?

But first, let me make this brief observation: After the election of 1980, but before the administration had actually changed hands, David Stockman wrote an article laying out what he called a "regulatory blueprint." This article, entitled "Avoiding a GOP Economic

Dunkirk," was published in many newspapers, including the Post here and the New York Times.

At the time he wrote this article, Mr. Stockman had been neither nominated nor confirmed to serve as Director of OMB. Nevertheless, he outlined what he called a well-planned and orchestrated series of unilateral administrative actions to defer, revise, or rescind existing and pending regulations where clear legal authority exists. The staff of this committee has reviewed that article to determine which of the deferrals, revisions, and rescissions have actually taken place. Mr. Stockman identified a total of 36 items which were either administrative or statutory in nature and which were within the jurisdiction of the Environmental Protection Agency.

As best we can determine, action has been taken on at least 26 of the items identified by Mr. Stockman. In 24 of those cases, the action taken was what he proposed. In two, it was not.

So I come to the first question: Do you believe it is appropriate for the Director of the Office of Management and Budget to identify such targets or, to use Mr. Stockman's phrase, "regulatory ventilation?"

Mr. RUCKELSHAUS. Mr. Chairman, let me distinguish between his right along with any citizen's to identify targets as opposed to his right to make a decision or his power to make a decision. In many of the statutes that have been passed by this Congress, it is made very clear that it is the Administrator of the Environmental Protection Agency who has to make the decision. There is no way I can delegate that responsibility. When I was at EPA before, this same issue arose. I wrote a memorandum to the White House at the time discussing the legal implications of those provisions in the statute. I must say I tried mightily to find that memorandum when I was announced 6 weeks ago. It was the only thing I wasn't able to find and provide to this committee.

In that memorandum, I indicated I had the legal obligation to do many things. As best I can tell, that is still what the law says. I have no desire to take a job in this or any other administration and in any way not comply with the laws.

Senator STAFFORD. Thank you very much.

With whom have you discussed your role as Administrator, and what assurances of independence do you have, and who have they come from, assuming you have them?

Mr. RUCKELSHAUS. I have discussed, as I indicated in my opening statement, Mr. Chairman, my role with the President of the United States, along with his immediate staff. I, frankly, couldn't get any more assurance than I have as to the kind of issues that I have already discussed relating to personnel and resources. I told the President how I thought the Agency should be run and it had to be run openly; it had to be run as inclusively as possible with all of the publics that we serve, and that as far as I was concerned, it was going to be my obligation to do the best I could to carry out the mandates of Congress.

He could not have been any more receptive to that, and the discussions I had with him were very open and, as far as I was concerned, fruitful on the subject.

Senator STAFFORD. Do you feel that you have the assurance of the President that you have the necessary independence to execute the office as you believe it should be in accordance with the laws of this country?

Mr. RUCKELSHAUS. Yes, I certainly do, Mr. Chairman.

Senator STAFFORD. Might I ask you—although I trust this will never occur again—under what circumstances, if any, would you tender your resignation?

Mr. RUCKELSHAUS. That was part of the discussion I had, Mr. Chairman. I told the President that having done that once, I was not really interested in trying it again, and that that was why I wanted to have this discussion.

I wanted for us to have a meeting of the minds as to what I felt the job was all about and what was necessary to do it. We could not have had a better discussion or a better meeting of the minds as far as I was concerned.

Now, it has been mentioned here, and it may be worth repeating: I think that anybody who is in the executive branch of Government, in a sense, serves two masters, but there is only one primary master, and that is the American people.

There is an overriding obligation that anybody in the executive branch of Government has to serve his own perception of the public interest.

At the same time, I am part of this administration, and I will do the best I can to fashion the administration's policies consistent with my own beliefs. I do not believe that every time I don't succeed in getting exactly what it is I want or that every time, in the process of working through an administrative policy, I don't win, that, therefore, you turn around and resign. I think that everyone has to say that to himself when he comes in to one of these jobs.

There are simply some lines over which I won't step, and I have said that now as I said it in the jobs I held before.

Senator STAFFORD. I cannot think of a much better answer than that.

The Environmental Protection Agency recently developed and submitted to the Cabinet Council on Natural Resources and the Environment a proposed national groundwater strategy. That council is chaired by Secretary Watt.

According to press reports, the Cabinet Council rejected the EPA proposal. According to these same reports, Secretary Watt, then, initiated a letter writing campaign to the Governors urging them to oppose the ground water strategy.

My question now is, have you met with Secretary Watt, and what do you believe your relationship will be with him and the Cabinet Council? Specifically, do you anticipate that he and the Council will review, for purposes of approval or disapproval, positions developed by you with respect to the Clean Water Act, the Clean Air Act, and the other environmental statutes?

Mr. RUCKELSHAUS. Mr. Chairman, I have met with Secretary Watt.

Let me give you my own understanding of how the Cabinet Council works as it relates to EPA or any other departments or agencies of Government which are part of the seven Cabinet Councils. There are major issues that come before the Cabinet Council relating to legislation, major policy considerations that cut across several governmental agencies which are considered by the Council.

This is true of some of the issues that EPA addresses. There cannot be any delegation to the Cabinet Council to make the decision as to what should be done with a specific environmental regulation or requirement that is given to me by the law.

I cannot make that delegation. Where we are talking about broader legislative or other kinds of issues to which I am not, by the Congress, given the specific responsibility to carry out, and where we are talking about cross cutting kinds of decisions, the Cabinet Council does have a role.

I will be a member of the Cabinet Council and will be making my point of view heard as forcefully as I can in that setting.

Senator **Stafford**. Thank you, very much, Mr. Ruckelshaus.

Senator Randolph?

Senator **Randolph**. Thank you, Mr. Chairman.

Before asking questions of Mr. Ruckelshaus, I believe, Mr. Chairman and members of the committee, we realize that from time to time and for various reasons the EPA will be run by someone other than the Administrator.

Present at our hearing today, is the man who presently is serving as the Acting Administrator of EPA; his name is Lee Verstandig.

We have had the opportunity to work with Lee Verstandig. He is on temporary leave from the Department of Transportation. I believe during this period that he is performing well at EPA. It is, in many ways, a difficult time. I felt that his steady hand should have an endorsement from me.

Mr. Ruckelshaus, agency policymaking is important, and in your role as Administrator in the policy setting process for EPA, you are going to continue, in a sense, that program which you understood so well many years ago.

I recall that 2 years ago, just this week, Anne Gorsuch, Mrs. Burford, told us her policy decisions would be her own decisions and would not be subject to a vote in the Cabinet Council on the direction of Secretary Watt. Events have indicated, at least in part, that she has been unable to follow through, in the period that she was Administrator on the commitment made to the committee.

As EPA Administrator, will your position carry cabinet-level rank?

Mr. **Ruckelshaus**. Mr. Chairman, I will be a member of the Cabinet Council that reviews general policies, not the specific responsibilities given to me by Congress that I have to carry out, but general policy issues that affect the environment.

I am not a member of the Cabinet in the sense that that body is designated either by the President by the PAS level 1. I am a level 2 appointee, so in that sense, I am not a member of the Cabinet.

Senator **Randolph** [presiding]. Will you at least be on an equal footing with Secretary Watt in the influencing of environmental policies?

Mr. **Ruckelshaus**. I would hope so. I will be a member of the Cabinet Council, a full-fledged member.

Senator **Randolph**. Much has changed since you inaugurated the Environmental Protection Agency over 10 years ago. Congress has changed the agency and given it new responsibilities. Programs have been created under the Solid Waste Disposal Act; the Safe Drinking Water Act; the Toxic Substances Control Act and, most recently, as members of our committee know, superfund.

Additional mandates have been added to the statutes which preceded the advent of this agency.

Would you comment on any changes you see in the mission of the Agency as contrasted with the Agency of 1970?

Mr. RUCKELSHAUS. Mr. Chairman, as I indicated in my opening statement, I think that there is a lot more emphasis today on toxic substances. The toxics problem was there when I was there. We simply hadn't recognized it to the extent that we now have. That recognition, like the Clean Air and Clean Water Acts, which were so prominently featured when I was first at EPA, has been translated into laws enacted by Congress. These are very comprehensive, very complicated laws.

The toxic substances laws it will have to be a very high priority of mine. They are working, and I think in terms of these dumps. Toxic waste dumps are scaring people all over the country. We have really got to get after that problem and get after it aggressively.

Senator RANDOLPH. The previous administrator created a new layer of administration within the agency the Office of Associate Administrator. That office was given a major role in the creation of policy within the agency. Yet, there was no confirmation process in the Senate for an Associate Administrator.

Do you intend to keep such position of Associate Administrator within the Agency? Will you modify the allocations of responsibility among what we would call Assistant Administrators?

The Agency, I sense, has been hampered in the past by a delay in nominations for the critical Assistant Administrator positions.

Do you think that relatively soon you will have the opportunity that you could submit those nominees for the vacant positions in the Agency so that the business which you have to attend to can be brought to fruition?

Mr. RUCKELSHAUS. Senator, I think that is a very good question. Organizational problems of the Agency, I think, are apparent. I believe that an organization has to be simple; it has to be understandable; everybody has to know what their assignment is.

I intend to have a very small personal staff. I will be working very closely with the Assistant Administrators, those appointed by the President and confirmed by the Congress, and the Deputy.

I have asked the staff that is there now, the four people who were sent over by the White House several months ago—or several weeks ago and who have been doing an outstanding job—and you mentioned one, Mr. Verstandig—to give me some options for organizational change. I have asked them to keep those options as simple as possible, because I don't want to put the Agency through another massive reorganization.

They have had enough of that. I have asked them to take those positions that report directly to the Administrator and put them all under one of the Assistant Administrators and hopefully to get those people in positions of significant responsibility to be confirmed by this Congress so that you can oversee their qualifications and abilities and pass on them.

I have also put a very high priority on getting these people on board as fast as I possibly can because there is no way that I can be successful in trying to administer that agency without the best help I can find.

That is really what I have been spending a good percentage of my time on in the last few weeks.

Senator RANDOLPH. When you were first administrator for this agency, we recall that you established the centralized system of regional administrators with discretion, I would call it, perhaps significant discretion, within those regions.

This has resulted, so we believe from study, in inconsistencies in the enforcement and interpretation of the various laws which the Agency has a responsibility to administer.

How do you, at this point, perhaps, assess the situation, and what would you intend as you take over to assure that the laws are uniformly interpreted and enforced?

Mr. RUCKELSHAUS. Senator, you are correct in saying that it was under my original position there that the regional offices were established. We established the 10 regions and gave them more power, more autonomy, really, than virtually any other regional office that is in the Government.

That remains true. What is needed, in my judgment, is clearer guidance from EPA headquarters as to how the regional administrators are to carry out those responsibilities that they have been given. I still believe in the strong regional administrator concept.

One of the problems, I think, we are currently having is that some of the decisions that ought to be made at the regions are being pulled through an approval process at headquarters.

That is very time consuming and cumbersome, and, instead, what I would like to work for is a clearer set of guidelines to the regions as to how they are to proceed and how they are to operate.

As I indicated in my opening statement, I will be going around to the regions and talking to them, trying to give them as much guidance myself as I can. But they simply need in the area of enforcement, for instance, much clearer guidance as to precisely how they are to proceed so that we have uniformity and continuity in the administration and enforcement of these laws.

Senator RANDOLPH. This final comment: At the time the announcement was made or even, perhaps, before it was officially made that you had been nominated or would be nominated by the President for this position as administrator of EPA, I was asked—and perhaps others were asked who are the members of this committee—how we felt about this action by the President.

I said then, and I repeat today that I will support you for this position. I will support you in the committee. I will support you in the Senate. I don't do this hastily. I have been a part of this program from the very beginning. I know you as others know you. I simply wanted to say that you will be a good man for a tough task.

Thank you.

Senator STAFFORD. Thank you, Senator Randolph.

Senator Chafee?

Senator CHAFEE. Mr. Ruckleshaus, yesterday in the testimony by a group of environmentalists before this committee, the suggestion was that the settlement of any cases arising under Superfund had a particularly sinister air about it and that certainly, the thrust of the testimony indicated that the cases should be brought through a trial procedure and settlements avoid.

There might be arguments from the environmentalists on that point, but I would like to hear from you on the point of the settlement of cases.

Mr. Ruckelshaus. Senator, the desire to bring every matter, every dispute, every negotiated settlement before a court, in my judgment, is simply a symptom of the current problem at EPA and that is a lack of trust of the agency.

We cannot deal with the incredible number of problems that we have at EPA by bringing everyone of them to court for approval before we proceed. If you take the Superfund problem dealing with these abandoned dumps all over the country, there are two questions: First, what is the nature of the problem and how do you get it cleaned up; and, second, who pays?

The question of who pays has been addressed first, in some instances, before we have gotten to the question of what is the nature of the problem and how do you clean it up?

I think the law gives the Agency and its Administrator sufficient flexibility to deal with the cleanup problem first without going through what sometimes can be a very lengthy, complicated and difficult negotiation about who pays.

That is the way I would intend to proceed. I have no fear that we are capable, the Agency is capable, its people are capable of arriving at an honest negotiated settlement that makes a fair allocation of costs in terms of who pays without having to go to court to get some sort of decree or ratification of that settlement.

On the other hand, if it is necessary to go to court in order to achieve that, we will do so. We will use the tool of enforcement where that tool will get us the quickest and most just result. But I don't believe it is necessary to use it in every instance, and as far as I am concerned, I don't think we should.

Senator Chafee. I share those sentiments, Mr. Ruckelshaus. Sure, it is easy to go charging into court every time to tie the Agency up and divert someone's energies from achieving the goal, which is getting the cleanup.

However, it did seem to me today that there was some validity in the point they were raising: Namely, that there should be some kind of a public airing of the settlements proposed.

Could you give me your reaction to that?

Mr. Ruckelshaus. As I have indicated, Senator, I think that we are going to have to operate in a fish bowl, just the way I have been operating in the last 6 weeks.

Otherwise we can't function, because the question is one of public trust. If the public does not believe that what we are doing is in their best interests, that we are trying the very best we can to deal with these problems, then there is no way this Agency can function. And, therefore, in order to regain that trust and to regain the confidence in the public in what we are doing, we are going to have to operate in a much more open fashion than we have in the past.

I think in the case of these settlements, it will be necessary that we develop some sort of public airing, as you call it, or public hearing of some kind for the public to be convinced that what we have done is in their interests.

Senator Chafee. Thank you, and just speaking on one Senator's behalf, I want to say that I stand behind your settlement policy; that it will receive my support.

Now, changing the course a bit, Mrs. Burford did not have the right to choose her assistants. They were chosen by other people to the best of our knowledge.

Will you have the power to choose your assistants?

Mr. Ruckelshaus. The Presidential appointees that will be brought before this committee for confirmation are chosen by the President.

I am part of the process by which those decisions are made. I could not have, and have never had in the administrations in which I have been a part in the past, any more cooperation than I am now getting in terms of choosing of individuals.

What I made clear to the President and what he could not have been any more emphatic in agreeing to was that I needed people with three qualifications: Competence, experience and honesty, and if they had those three qualifications, I was going to go after them and try to get them in there.

He could not be any more supportive of that, and I have found nothing that has transpired since that has led me to believe otherwise.

Senator, I really do want those people to understand that they are not just my choice, they are the choice of the President. The President is the one who has appointed them, and, therefore, we are part of an Administration.

That does not mean that we don't have an obligation, just as I have suggested here, to faithfully execute the laws of this country. We do. Their choice is a joint decision, and one in which, I must say, I have had more cooperation than any other Administration I have been in.

Senator Chafee. If the administration or the White House group should insist that you take someone, an assistant who you don't feel meets those three criteria, would you have a veto power over the acceptance of them?

Mr. Ruckelshaus. Absolutely. That could not be any clearer. I asked that precise question.

Supposing you sent me somebody that comes out of a system of some kind of search for people, and I say, "I don't like him." I say, "That is it, they are not there."

That could not be any clearer.

Senator Chafee. Now, changing direction again, I am greatly interested in the 404 program of the Clean Water Act, and I would be interested to hear your thoughts on the 404 program.

There is correspondence that was from a Mr. David Nicholson of Weyerhaeuser to Mr. Krivak of EPA.

Did Mr. Nicholson work for you?

Mr. Ruckelshaus. He worked for somebody who worked for me.

Senator Chafee. Mr. Nicholson in his letter stated that, "The original intent of section 404 has been lost, and it has become a land use control device."

Is this your position?

Mr. Ruckelshaus. Senator, a lot of these letters I saw for the first time last Friday. The position on 404 is a complicated question. I am not as familiar with all of the arguments pro and con relating to 404 as I am with some other issues that have come before this committee and are being administered by EPA. And if I were to say that was my position, I would be speaking from a fairly deep well of ignorance about that whole issue.

I don't doubt for a minute that is Mr. Nicholson's sincerely held belief, but I simply don't know enough about the issue to know whether there is any justification for that position.

Senator **Chafee**. I would urge you to give some attention to section 404 of the Clean Water Act, because that is the section that is under fire from Mr. Gianelli and the Corps of Engineers.

Mr. Gianelli's view seems to be that the EPA should be removed from setting the broad criteria that the Corps of Engineers currently carries out. That is an arrangement that I, for one Senator on this committee, would find extremely distasteful.

I am not anxious for the Corps of Engineers to have the primary role under the 404 section of the Clean Water Act.

The Superfund program, that expires in 1985.

Do you have any views on seeking an extension of that?

Mr. **Ruckelshaus**. Senator, one thing that is clear to me is that the problem of these abandoned dumps is a bigger problem than it first appeared when the Congress started addressing them several years ago. And it is also clear to me that this country has embarked on a course to clean those dumps up.

We simply cannot permit—whoever was at fault or however it happened—those kinds of potentially significant health hazards or hazards that really scare people to continue to go unaddressed. We have embarked on a course to clean them up.

Whether that is best achieved by the reauthorization or repassage of the Superfund law, I don't know, but I am convinced that we are embarked on an appropriate course. As far as I am concerned, Superfund is now the law that Congress has passed to cleanup abandoned dumpsites.

It is a tool that we intend to use. It is a good tool, and we will continue to use it.

It is also clear to me that it may well be that it is going to cost us significantly more money than we thought when we started to achieve our goal; that is, to get these dumps cleaned up.

Senator **Chafee**. Mrs. Burford, in her final testimony up here, indicated that she sought to zero out the grants to the States during her term.

What is your view on the grants to the States?

Mr. **Ruckelshaus**. Well, as I read our budgetary history, the administration would submit its proposal for Federal grants to the State programs; the Congress would come back approximately to where the number was before, and the administration or the President would sign it, as has gone on for the last 2 years.

We now have another proposal for a reduction in State grants, and based on everything I can tell from talking to the members of this committee and others, the same thing is going to happen again; namely, that the Congress will put the money back in, and it will be signed.

Now, we are obviously not getting anywhere with this approach. As I suggested in my opening statement, we have got to try to forge a consensus with the Congress, with the administration and with the

States as to what is the State role and what is the Federal role in the administration of all these laws, and who pays for it.

As of now, we don't have any consensus. We have a position on the part of the administration that it would like to delegate more of this responsibility back to the States along with the responsibility for paying for it.

The States are willing to take the delegation, but as of now, they are unwilling to pay for it, and given the economic condition of most of these States, it is understandable why they are unwilling to pay for it.

I think if we don't develop some general consensus on what that role ought to be and who ought to pay for it, we are never going to get anywhere. We are just going to have the same thing continue as has happened in the past.

What I would like to work for is the development of some kind of consensus. And if there is going to be a larger State role, and if that implies a larger obligation on the part of the States to pay for it, then that would be phased in over time so that States can pick up that obligation as they become more capable of administering those programs.

Senator **Chafee.** Fine. Thank you, very much.

Thank you, Mr. Chairman.

Senator **Stafford.** Thank you, Senator Chafee.

As is the custom in this committee to call upon members in the order of appearance, Senator Baucus being an early arrival, we will call on him next.

Sentaor **Baucus.** Thank you, Mr. Chairman.

Mr. Ruckelshaus, what degree of independence did you seek when you spoke with the President? How far did you go, and what did you ask him?

Mr. **Ruckelshaus.** Senator, I sought as much as I thought was necessary in order to carry out the job. I did not seek to gain from the President any sort of understanding I was not part of his administration. If I didn't feel comfortable in joining his administration, I would not have accepted the job.

But in describing what I felt was necessary to do the job and in gaining his agreement that that was a correct definition of the job, I believe I have all of the independence I need in order to function as the Administrator of EPA.

Senator **Baucus.** What assurance did you get from Secretary Watt when you spoke with him?

Mr. **Ruckelshaus.** Well, Secretary Watt has a set of responsibilities as they relate to the Interior Department. I have a set of responsibilities as they relate to the Environmental Protection Agency. Those are made very clear by statute. There will be no interference by me on what his responsibilities are nor any interference by him on what mine are.

Senator **Baucus.** What is your understanding of whom you will report to as you exchange communications with various members of the Administration in implementing Administration policy? Do you report to the President directly? Do you report to Secretary Watt? Do you report to someone in the White House? Who do you report to?

Mr. **Ruckelshaus.** I report to the President. It is very clear about where those lines go. I don't report to Secretary Watt or any other Secretary.

Senator BAUCUS. Will you report through an intermediary; say, Mr. Meese, for example?

Mr. RUCKELSHAUS. There is not doubt that when I call the President, I may get somebody else on the phone.

But I also have a commitment, as do others in the President's Cabinet, that within any 24-hour period, if I make a strong plea to see the President, they will get me in to see him.

Senator BAUCUS. What assurance do you have in working out enforcement policies with the Department of Justice? As you know, the EPA works up and prepares litigation for the Lands Division of Justice, which doesn't litigate.

Have you spoken with Carol Dinkins? What assurances have you received from her?

Mr. RUCKELSHAUS. I have spoken with Carol Dinkins, and I believe that in working with the enforcement people at EPA, we need to work out an enforcement understanding that makes it much simpler than it now is to make a decision to get the case under way. I think that is entirely possible to do, and so does she, but I think there have been a lot of problems, organizational problems, and I don't know to what extent they are related to the three questions I mentioned about enforcement: Whether it is will or capacity or organization design.

But in terms of the will, whatever problem there was with that is gone.

Now, to the extent that wet have to break some organizational roadblocks in order to get the decision made, that is what we are going to do.

Senator BAUCUS. What happens when you are in disagreement, say, with Miss Dinkins? What if you think that the case should be litigated and the Justice Department thinks it should not? How is that going to be resolved?

Mr. RUCKELSHAUS. The litigating responsibility for the Government is lodged in the Department of Justice. It was when I was at the Department of Justice, and, in fact, I was shown a very long memorandum I wrote when I was at the Department of Justice—I have recently seen all kinds of memorandums I have written in past years—indicating I felt you couldn't function in an administrative branch of Government unless you located that litigation responsibility somewhere.

I still believe that. I think for purposes of orderly administration of justice, there has to be some place where you lodge that final authority. If you don't, you get different departments or agencies of Government going into court asking for different interpretations of common statutes that apply across the board and you really have chaos.

Senator BAUCUS. I understand that. In fact, several years ago, I conducted hearings on that very point, trying to do what you are talking about, trying to consolidate all the litigating functions in the executive branch in the Justice Department so other agencies don't, for cross purposes, work against other agencies in the Government.

Are you saying, then, that once EPA has prepared a case that it is then up to the Department of Justice to decide whether or not to pursue that case, that you are through with it? Have you washed your hands of it, or if you disagree with the Department's reluctance to prosecute, take the matter to the Council or to the President?

Mr. RUCKELSHAUS. It depends. It depends on the nature of the case, and whether there is room for honest disagreement in terms of exercise of prosecutive discretion. When I was at the Justice Department before, it was the policy then, and I believe it is still the policy, that the Department should defer to the other agencies and departments of Government in terms of prosecutive kinds of decisions.

However, where the department or agency feels that fundamental fairness or some other kinds of problems are involved that transcend the immediate program needs of that department or agency, then the department or agency will interject itself. If I felt strongly enough about it, I would take it to the Attorney General, and if that didn't work, I might take it to the President.

But it would really depend upon the nature of the case and how important I thought it was.

Senator BAUCUS. You mentioned that you have the will to enforce, and I think that you do have that will. Just to refine that a little bit further, the Attorney General for the Antitrust Division at the Department of Justice has said that he will not bring enforcement actions in those areas where he disagrees with the law. If his own personal conviction is different from what he thinks the law is, he will not bring those actions. I trust, from what you say, you disagree with Assistant Attorney General Baxter.

Mr. RUCKELSHAUS. I don't know under what context the Assistant Attorney General made that statement. As you know, Senator, there is flexibility in terms of prosecutive discretion that the prosecuting arms of the government have. If he was talking about it in that context, that is proper.

If this Congress has given me a mandate to carry out a particular program and as part of that mandate if certain things happen, I am to go to court to enforce the law. I don't think that is a discretionary act on my part.

Senator BAUCUS. Senator Moynihan and Senator Mitchell, and maybe others, have suggested legislation to make the EPA an independent regulatory agency. Is that good idea?

Mr. RUCKELSHAUS. Maybe I ought to answer that to Senator Mitchell. I don't personally support that, as I understand it, Senator. It is a suggestion of a commission-type agency in which there would be five, seven or so commissioners to make a decision.

It is hard enough to get those decisions up to the Administrator's office for one person to make the decision, much less to try to do it for four or five. That, as I see it, is one set of problems.

Another set of problems is that I honestly believe, and some of the questions that have come out here today have illustrated the point, that while the Congress has given me specific responsibilities as Administrator to carry out under the law, there are abroad policy questions involving the environment that cuts across everything. I don't believe that in trying to determine what sort of environmental policies this country should follow, I should be immune from the impact of other social concerns on what my decision is. I should attempt to take those into account.

If, for instance, I was sitting at the White House and were concerned about coordinating social policies in this country, I would be a little concerned if one social policy were singled out and put into a separate independent agency. Coordinating mechanisms are necessary to insure that a sound social policy for the whole Nation is carried out. For that reason, while I think the Administrator of EPA has to be independent, at the same time, he has to be subject to the kinds of give and take necessary to make a sound national policy as it relates to social issues.

Senator **Baucus**. I understand, and I think this committee does, too. You said earlier in trying to make that distinction that in those areas where the statutes mandate a certain obligation on the part of the EPA Administrator, that those are areas where you will fulfill the law, execute the law and enforce the law, and those are areas which cannot be delegated to anybody else.

On the other hand, those broad policy areas are areas which are administration policies determined, I suppose, by the President ultimately, but also by the Council.

Still, it is important for us to know the degree to which you can become independent to know what those differences might be; that is, where you personally may disagree with what you perceive to be or were told to be the administration environmental policy.

Would you tell us what those possible areas might be; that is, where you personally might have some disagreement with which you perceive to be the environmental policy of the administration?

Mr. **Ruckelshaus**. As I tried to indicate in my opening statement, Senator, what I know about the policy of this administration is primarily based on briefing materials that have been supplied to me in preparation for this hearing, in what I have read, and what I have listened to. Until I am actually an active participant in the policy debate and until I can bring to bear whatever knowledge and analytical ability I have in an attempt to affect that policy and determine if we can't push it in a different direction, it is difficult for me to know where I might have fundamental disagreement.

Senator **Baucus**. Did you discuss any disagreements at all?

Mr. **Ruckelshaus**. I discussed with the President, considerations relating primarily to the effective administration of EPA, and I found no disagreement.

Senator **Baucus**. I have no other question, and I appreciate very much your candor in answering.

But before I turn it over—I think my time is up—let me just say, I am asking these kinds of questions with respect to appearances because I think you are a very good man trying to do a very good job. I am just trying to help you have the tools to do that.

I thought your statement was very excellent. It was one of the best statements I have heard from any nominee before not only this committee but any other. So I trust that you will take the questions that I and others ask with the understanding that we are trying to help you to do the best job possible.

Thank you very much.

Mr. **Ruckelshaus**. Thank you very much.

Senator **Stafford**. Thank you, Senator Baucus.

The Chair will restate that we do plan to stop today at 1 o'clock and resume again at 10 tomorrow morning.

The order of recognition for the rest of the day would be Senator Mitchell next followed by Senator Hart, followed by Senator Moynihan.

The Chair would take this opportunity to put Mr. Ruckelshaus on notice that when next the Chair has time, I would want to discuss with you your letter, which I believe is public, to Mr. Scott of April 25 describing your severance of various positions you hold, the disposition of assets and so on as I look at it.

Assuming you are confirmed, and I believe you will be, there will be a vacancy that you will have left at Weyerhaeuser, and I might be looking for a recommendation from you to move that position.

Senator Mitchell.

Senator MITCHELL. Thank you, Mr. Chairman.

Mr. Ruckelshaus, as you know from our prior meeting and discussion, when your nomination was first announced and my opening remarks today, I am deeply concerned about the status of the EPA budget and what I conceive to be its total inadequacy to the task at hand.

You have, both in our private conversation, and today, expressed some reluctance to commit yourself in that regard because you have said you needed more time to study the situation and be on hand.

However, I have before me an excerpt from an interview which you granted to a magazine called Industrial Development in September 1980, and the magazine reports you then as saying, as I quote your remarks as reported in the magazine,

> The truth is that EPA as currently configures with the job it has been given to do is unadministerable by anybody. It simply has been given more tasks than people or money it has to do them.

Since you have said those words, EPA's tasks have increased, and the amount of money and people it has been given to do those tasks has significantly decreased.

As I indicated in my opening remarks, the President has proposed massive reductions in the EPA budget which, if approved, they would amount to 40 percent after adjustment for inflation; already they are nearly 25 percent.

If you were prepared in 1980 to say that EPA had insufficient people or money to do the task, it then had, why are you not prepared to do so today when the tasks have increased and the money and people have decreased?

Mr. RUCKELSHAUS. I don't recall that statement, Senator, but I am sure that is an accurate quote.

Senator MITCHELL. Well, it was given to me by the staff, and if it is not accurate, I will stand corrected.

Mr. RUCKELSHAUS. No, I am not quarreling about the quote. I think if I send that over to Mr. Stockman, it will scare him to death.

I think that in the description of the massive assignment that EPA has been given by this Congress, it is difficult to decide what is the proper level of funding, and it is difficult to achieve all of those tasks within the time frames that have been established by the Congress and many of the statutes. That is what I am going to be trying to examine, to see just exactly what the resource needs are and if, in that examination, I decide that we are going to need significantly more resources, I will be requesting them.

I had not, as of 1980. in taking the context of that statement, made such an examination of EPA, but I think I was commenting more on the massiveness of the assignment that EPA has been given.

It really is a very broad, very comprehensive kind of assignment, and it takes resources to carry it out. I don't question that for a minute.

I just have not made a detailed examination since coming here, nor at that time.

Senator MITCHELL. Well, with all due respect, Mr. Ruckelshaus, your remarks were not at all ambiguous. You said, and I quote again,

> The EPA simply has been given more tasks than people or money it has to do them.

That is a very clear statement, and it represents what I perceive to have been your judgment at that time, and it seems to me impossible, given what has occurred since then, for you to have any other opinion than that, including the opinion that you don't know and you have got to study it. Because it is obvious, is it not, that the tasks have increased and the money and people have decreased?

Those are facts.

Mr. RUCKELSHAUS. Yes, that is right, Senator.

One of the things that has always happened is that there has been a determination that in some of the programs which are more mature, those budgets can be decreased more than others, and the Superfund budget, for instance, has been increased over the last two years in terms of requests to Congress.

We have got problems in the Agency, and I am not suggesting that some of those problems aren't related to resources.

But to the extent that you want me, at this point, to commit as to what that number might be or what those additional resources might be, I am simply not able to do so.

Senator MITCHELL. I am not asking you to commit to a specific figure. I am asking you to say today what you said in 1980, because if you said it and believed it then, it is obviously even more true today.

Clearly, I cannot ask you to commit to a specific figure, but it seems to me possible to say, to make today the kind of judgment that the EPA budget proposed in the President's fiscal 1984 budget is wholly inadequate to meet the task at hand. That was your judgment in 1980.

I don't see how it is possible for you to make any other statement today.

Mr. RUCKELSHAUS. The statement in 1980 had nothing to do with the budget proposed by the President for 1984. That was——

Senator MITCHELL. I understand that.

Mr. RUCKELSHAUS [continuing]. That was a comment on the agency as it currently existed. It is a comment that has been made by Mr. Costle, by Mr. Train, by most everybody who has been at EPA, Senator, in terms of describing the assignment given to EPA by the Congress and, in effect, by the American people. It is a terribly complicated, massive kind of assignment. To the extent that it can be described in terms of resource and people needs, it is overwhelming. And having described it that way, then bringing it down into a budgetary context and saying, "How many people and how much money do we need to do what," that is what I need to do now.

Senator MITCHELL. I won't belabor the subject. I will simply say that I don't believe you have answered my question. You were explicit and unambiguous; you made a judgment in 1980. The circumstances now, in my judgment, permit nothing more than a reaffirmation of your conclusion then.

I will welcome what conclusion you reach after you conduct the review that you are now undergoing, and, I, speaking for myself, and, I believe, some other members of the Committee, we hope that you will come back with what is a more realistic budget.

I would like to move now to another subject, and that is the question of acid rain, which, as you know, I and some other members of the committee have a particular interest in.

Over 2 years ago you appeared before this committee, and you were asked about acid rain then, and you said, and I will again quote your words:

> We ought to ask ourselves the question, "Do we know enough now to act," but in addition, should we act now in order to avoid the long range problem, or if we had two more years of research and better understanding of what the nature of the problem is, what could we expect to get at the end of two years?

More than 2 years have elapsed since you made that statement, and there has been an extensive amount of research completed in that time.

For example—and this is not meant to be exhaustive but merely illustrative—the National Academy of Sciences in September 1981 issued a very detailed report supporting the conclusion that action was necessary now.

The Office of Technology Assessment issued an interim report in July 1982 simply supporting such a conclusion.

The Swedish Ministry of Agriculture published a very good report entitled "Acidification, Today and Tomorrow" in the summer of 1982 simply supporting such a conclusion.

The proceedings of the 1982 Stockholm Conference on the acidification of the environment were published in that year simply supporting such a conclusion, and the Joint United States-Canadian work group reports of February of this year, while not reaching a conclusion, can, in my judgment, impute and objectively provide support for it.

Now my question is, are you now prepared to tell us what your position will be with respect to legislation calling for action now to deal with the problem of acid rain?

If not, why not, and if so, when?

Mr. Ruckelshaus. The question of acid rain is one that I mentioned in my opening statement, Senator. It will be a high priority of mine.

The question in my mind, am I prepared to support legislation? It would depend on what kind of legislation you were talking about. I do think that it is necessary for this Administtration to make very clear what its position is on acid rain, what its approach to the problem is; if it is more research, what exactly do we expect to find out and when.

Is that research, in fact, aimed at getting answers to questions about what kind of control strategy might, in fact, effect a reduction in the problem of acidification of lakes? And I think those are all valid questions. It is a high priority of mine. I have so stated to the Secretary of State, and I will state to you that I think that this issue need my aggressive and serious attention.

I think you asked a valid question. I find it difficult to give you a date, except to say that I will be pursuing it very aggressively.

Senator MITCHELL. As you do that, Mr. Ruckelshaus, you will, of course, be confronted with the argument that we don't know enough to act and that there was uncertainty, and as you consider acid rain, I ask you to heed your own words expressed this morning regarding EPA problems generally, and I quote from your statement this morning:

> The problems EPA confronts are hard ones. Throughout, from the definition of the problem to its solution, the Agency confronts enormous scientific uncertainty. It often must act before it is clear what the optimum solution would be.

I cite that statement, really, to point out that the fact that some scientific certainty exists with respect to acid rain does not make it unique in the range of environmental problems that the Agency and the Congress and the American people confront.

Indeed, it is consistent in that respect with all of the other problems you face. Scientific certainty is a very rare commodity, and I urge you not to be deferred by those who suggest that because some scientific uncertainty exists with respect to acid rain, that there should be no action.

Finally, when you say that you think the administration's position should be made clear on acid rain, let me say that is not the problem; the administration's position is clear.

The problem, in the view of many of us, is that it is wrong. It takes the position that we need more study without any single or group of studies being suggested, any timeframe being suggested, any framework being suggested for when the problem may be resolved.

That, I think, is what I hope you will get at and comport. I hope, obviously, that you will support legislation, and to be specific, mine.

But I hope you will support the legislation.

The Chair tells me my time is up, but I have several more questions to ask you.

Senator STAFFORD. Senator Hart.

Senator HART. Thank you, Mr. Chairman.

Mr. Ruckelshaus, in my judgment, there is really only one question that is important here today; that is, whether your appointment represents a change in the administration's environmental policies.

I must say that given the statements that you have made here, I am confused, to say the least. You have described your contacts with the President and the White House. The President, who at the very least, is benign toward the environment, who essentially says to you, "Bill, go ahead and administer that Agency the best way you can; fulfill the law, carry out the mandate of the Congress to clean up the environment," and all of us welcome that.

But, on the other hand, I believe it is the same President who tolerates a Secretary of the Interior who seems constitutionally incapable of separating his own personal religious beliefs from the administration of the resources of this Nation; who seems hellbent, if I may say so, to see the disposal of the resources of this country as rapidly as possible; a President who gave every kind of signal possible throughout his own election campaign that to whatever constituencies he was appealing to, he intended to reverse environmental policies, deregulate everywhere he could and reverse the course; and finally, a President who tolerated in the Department that you have now been nominated for an administrator who seemed to be, to many of us, systematically setting about not carrying out the mandate of the law.

Now, am I wrong here? If so, how, and which President is in charge?

Mr. **Ruckelshaus.** Senator, those charges have been part of the debate here now for some time.

I am attempting to convince this committee, and if you don't believe me, then I would recommend that you not confirm me, that I am going to go to EPA and do what this Congress has told me to do, and that is spelled out in the statutes that I am charged by law with administering.

Now, to the extent I am going to recommend specific changes in these statutes, because I think the statutes can be made to work better or more efficiently or more effectively, I will do that.

If it is in that policy area that we have disagreement, then fine. But my charge from the President is to faithfully administer the laws of the Environmental Protection Agency. That is precisely what I intend to do.

I don't see the relevance of your broader charge and my own determination to carry out my duties at EPA.

I am concerned about what happened in the past. I wouldn't be here if I wasn't concerned about what happened in the past at EPA.

I think EPA is crippled. I think it is in trouble, and if I didn't believe that, I wouldn't be back here, and I think some of what has happened in the past has been an abuse of the process. And that has got to be set straight, but that is a separate question from how I am going to administer EPA.

I tried to spell out in my opening statement precisely how I intend to administer EPA, and that is what I intend to do.

In my view, it boils down to a question of trust. If you don't believe that is the way I am going to administer the Agency, if I am not going to do that, then I shouldn't be confirmed.

Senator **Hart.** Mr. Ruckelshaus, the question of your integrity is not at issue. But the President of the United States has identified himself with your predecessor's policies and practices which you have just, I think, very accurately described, and described the results of.

What I cannot reconcile is his public support for your predecessor's policies and the seemingly open ended mandate for you to go in and do the job that you say you are going to do.

Mr. **Ruckelshaus.** Senator, I did not comment in my opening statement on the substance of the charges that led to the crippling of the Agency, and there are all kinds of charges. It has resulted in the resignation of many, many people from EPA.

In the climate that currently exists, I am not going to get into the question of whether those charges are valid or not. Some of those people may be subject to some kind of civil or even criminal penalty.

I did not get into the question of whether the charges were right or the substance of them were right—and neither does he.

He has not supported any activity that has occurred that is wrong; that is, morally, legally, or ethically wrong.

I am not going to comment on the charges. I am simply telling this committee how I intend to proceed, and in saying there is no hit list or political decisions or there will be no sweetheart deals, that is the way I intend to proceed. It is the way I will proceed.

Senator HART. I certainly hope so, and I certainly hope the President of the United States lets you, but I would urge you to reread, once again, his statement on the occasion of the departure of your predecessor.

If you have any doubts about whether he approved of what she did or those under her, it is a very interesting proposition.

Let me refer to the letter of June 18, 1981, your letter to the Vice President on the question of clean air.

Your letter states, "My own belief is that a logical approach"—and this is a question of establishing some different approach to the cleaning up of the air of this country—"necessitates changing the process by which we currently set ambient air quality standards."

You have laid out the case as to how the Vice President and the administration have had a very difficult time confronting the American people with an argument to, some might say, relax clean air laws—others might say change—and you lay out a very, I must say, compelling and neat case. But, then, the cutoff at which you say, as I have just quoted, is the approach to changing the standards by which changing the process by which standards have been set.

You, then, go farther in that paragraph to say this:

> This must be a clear, up-front recognition that attemping to cope with air pollution by using health or environmental effects as the sole determinant of national policy is inherently irrational.

What standards would you use?

Mr. RUCKELSHAUS. Senator, let me try to answer your question by giving you a little background of my involvement with the Clean Air Act as it came before this committee in 1981.

I felt that after the election of 1980, there may have been a period in which it was going to be possible to look at some fundamental assumptions of the Clean Air Act. I thought we had an opportunity early in 1973 to do that when I was still at EPA, and worked with, then, Senator Muskie, who was the chairman of this committee.

In fact, one of the documents before you is a statement that was in the New York Times in which I spelled out how that process worked. Then with the Watergate, I went to the FBI, and Senator Muskie went to the Budget Committee.

I felt in 1981 we had another opportunity. The window closed almost as fast in 1981 as it did in 1973.

Your Commission had come out with the report on air quality. I felt it was a very good report. It was a lengthy, comprehensive report. In fact, I supposed it then and still support many of the findings of your Commission.

I wrote to Vice President Bush in late January 1981, a letter which this committee has, indicating that I felt it was possible to get fundamental changes in the law.

I wrote him again in June 1981 after testifying before this committee. I attempted to outline most of my views in terms of what that fundamental change would consist of.

I suggested again in June 1981, that I felt the window was rapidly closing, that the administration had better get moving on an approach to this or it wasn't going to be successful.

At just about that point, I dropped out, because it seemed to me the window had closed. I paid very little attention to the debate from then on and was not really an active participant.

The reason I think that basing a national policy strictly on the basis of one social concern—even one as important as public health—is irrational is because it inherently ignores other social concerns, and I have stated that in front of this committee; I have stated it in speeches; I have stated it over and over again.

The American people put a very high premium on public health—I think that is justified—probably higher than anybody in the world. But that does not mean that, in my view, that we should persue public health policies to the exclusion of everything else.

Public health concerns need to be balanced against other social concerns, whether it is the production of energy, the economy, or whatever it might be. To the extent that in the Clean Air Act, we give the impression to the American people that we are going to be able to absolutely protect any health concern they have by setting ambient air quality standards, we are flying in the face of reality.

Senator HART. That is not an absolute protection. You understand that. They are minimal. They are minimal health protections, not absolute health protection.

Mr. RUCKELSHAUS. Senator, the ambient air quality standard section states that we shall establish, first of all, a threshold below which there is no health effect and then provide a margin of safety below that threshold so that people will be fully protected.

When the act was first passed, it said we will achieve these standards nationwide by 1975.

Now, I went out to Los Angeles in 1973 in response to a court order in which I was going to be held in contempt if I didn't act and provide some kind of transportation plan, and I had to say that 80 percent of the cars are going to have to get off the road by 1975 so we could meet the oxidant standard.

That had an effect on me at the time when I made that announcement. There was a certain disbelief on the part of people against the Federal Government as far as Federal policy was concerned.

I was faced with a court order. I was faced with being held in contempt if I didn't faithfully execute the laws, so I did; I went out there and did what the law mandated.

Now, if we take just one standard that EPA is currently reviewing, particulate matter, the current scientific recommendation, as I understand it, is to select a range of numbers within which the statutory standard will be satisfied.

There is an upper part of the range and a lower. There is a letter from a group of Congressmen in the Middle West who say, "You should take the upper part of the range, because if you don't, that means we will have to shut down several factories around here and put people out of work."

I don't believe that the health determination the Administrator of EPA has to make should be affected by its economic impact. That should be a pure unadulterated determination on what is the health effect of this pollutant. And, yet, I am being pushed, the Administrator is being pushed to come in at the upper level of that range because of its economic effect by Members of this Congress.

I think if I took that into account under the way the law is currently written, I would not be faithfully discharging the laws of this country. But what happens is that if my decision is in the upper part of the range, I am going to be accused of having ignored health problems.

Sulfur oxides are another one. There is a body of scientific belief that you cannot establish a threshhold for sulfur oxide below which there is no health effect.

I don't know whether they are right or not. I have heard scientists say that. I haven't reviewed all the scientific criteria documents for the health effects of sulfur dioxide, but if that is true, if we cannot establish a threshhold below which there is no health effect, how am I going to set a standard?

It cannot be achieved if, in fact, there is no threshhold, without the cessation of the burning of fossil fuels.

What I am suggesting is that we should devise a process by law—that is what I meant by fundamental review—whereby the health effects process, our ability to determine what health effects are, is a separate process untampered by economics or anything else.

We need a lot more data, a lot more information on health effects in this country than we have. We need it better assembled and better described to the people. That is one of the elements that ought to be forged in developing an air pollution strategy.

Senator HART. My time is up, Mr. Ruckelshaus, but the present law of the land does exactly what you are talking about: It says, "Health standards shall be established; ambient air quality standards shall be according to what health standards should and ought to be for this country as a whole, and costs may be considered in determining when and how those standards are established."

The whole history of the clean air laws is one of deferral and delay, not the other way around.

Senator STAFFORD. Gentlemen, let the Chair pose a question here: We have intended to stop the hearing at 1 o'clock. It is now 20 of. There is a rollcall in progress at the present time. Two members have not had their opportunity for questions.

The Chair would recess briefly and come back so that Senator Moynihan and Senator Humphrey can ask their questions this morning.

Senator MOYNIHAN. Mr. Chairman, I wouldn't be able to come back. I have a very brief statement to give.

Senator STAFFORD. In that event, the Chair would recognize you now, although we are several minutes into this rollcall.

Senator MOYNIHAN. I just want to take the opportunity to say that I rarely disagree with my colleague and friend, Senator Hart, but on this case, I think I have to. I want to assert with conviction that this administration has done more to clean up the air by closing down smoke stack industries than anyone in the past century.

Bill, it is a very, very fine thing to have you back in Washington. You know our feeling.

I would like to go into just two quick questions:

First, the statutory base of the agency, which Senator Baucus mentioned. You described EPA, as crippled. In the view of many of us, it was almost strangled, and what concerns us is a kind of thing you are uniquely capable of, which is looking to the institutional structure in which that cannot easily happen; there is no structure in which it can ever happen.

But as early as October 1981, this was getting clear to us. Mrs. Burford, as Miss Gorsuch appeared before this committee, and without any rancor, I said to her, "You know, if you cannot, in good faith, carry out these laws, you really should consider resigning. Because, when you leave this job, you are going to have a reputation of one kind or another that goes with you."

You are still operating with that Executive order of June 1970.

Would you give some thought to a statutory base for the Agency? I mean, would you have that in one part of your mind?

I am sure you have some thoughts on it. We have thought in terms of the modeling of a five-person commission which may be a 1910 solution to certain kinds of problems of independence, but such a huge agency, with no more base than an Executive order, seems an anomoly, doesn't it to you?

Mr. RUCKELSHAUS. Well, the Executive Reorganization Act that created the Agency? There is no organic statutory base of the Agency. The Agency's responsibilities are spelled out in the laws. There are some 10 laws that it has to administer.

Senator MOYNIHAN. The tasks of the Agency are in statute; yes.

Mr. RUCKELSHAUS. Yes. Yes; and it certainly is possible to create an independent commission as exists in other areas, and, as you say, were very favorably received back in the early part of this century.

I guess it is my belief that while we tend to think of the environment as being independent of these other social concerns, there is a lot of emphasis on——

Senator MOYNIHAN. Everything connects to everything, and you know that.

Mr. RUCKELSHAUS. Well, that was about what I was about to say, Senator.

Senator MOYNIHAN. I am saying that is your view. There could not be a more specific instance of that general truth.

Mr. RUCKELSHAUS. I really believe that. It is very hard to do, because whenever you start talking about public health and balancing it against anything else, you immediately get the American people's hackles up.

I am as familiar with that and aware of that as anybody.

Senator MOYNIHAN. Would you like to be a department?

Don't answer. Give that some thought. You could be Mr. Secretary.

One last thing.

Mr. RUCKELSHAUS. I am still trying to get confirmed as Mr. Administrator.

Senator MOYNIHAN. One last thing, you know you are going to be unanimously confirmed by this committee and this Senate. But may I just say that in your determination to work with us as a committee, on the matter of budget, we are going to make a budget recommendation this week. We are going to move, in the budget resolution, to raise the allocations for EPA to the 1981 standards in constant dollars, and I would just want you to know that the "Dear Colleague" letters we send in this matter have been signed by our chairman and by our ranking member, by the Senator from New Hampshire, by all the Senators here.

It really is the view of this committee, and we would hope that would make some impression downtown where, until what you now call civil and possibly criminal matters began to appear, nothing we said made much impression at all.

Would you take that message back?

Mr. Ruckelshaus. I will be sure and do that, Senator.

Senator Moynihan. On that, thank you very much, sir.

Senator Stafford. On that note, thank you, Senator Moynihan, and we will adjourn until 10 o'clock tomorrow morning in this same room.

[Whereupon, at 12:52 p.m., the committee was recessed, to reconvene at 10 a.m., Thursday, May 5, 1983.]

NOMINATION OF WILLIAM D. RUCKELSHAUS

THURSDAY, MAY 5, 1983

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

The committee met at 10:05 a.m., in room SD-106, Dirksen Senate Office Building, Hon. Robert Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Chafee, Abdnor, Symms, Durenberger, Humphrey, Randolph, Bentsen, Hart, and Mitchell.

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator STAFFORD. The committee on Environment and Public Works will please come to order.

The Chair wants the record to show that my most esteemed colleague, the ranking member, Senator Randolph, is not here at the opening of the meeting because he is attending the dedication of the Frank Turner Building, a matter of great importance to him, and I expect he will be here later on.

Good morning and welcome to the third day of this committee's hearings on the nomination of Mr. William D. Ruckelshaus to serve as Administrator of the Environmental Protection Agency.

I hope and expect that today's hearing will be the last of the series on this nomination. I also expect that some additional questions may be submitted in writing, and I assume, Mr. Ruckelshaus, that you would be willing to answer those in writing and respond as early as you can?

Mr. RUCKELSHAUS. Yes, I will do so.

Senator STAFFORD. I would hope we could act on a motion to order the nomination report very expeditiously, and certainly no later than early next week.

It is my intention to continue this hearing in the same fashion as yesterday. Ten minutes per member until all questioning is completed. The Chair also proposes to continue into the afternoon if it is necessary to complete questioning and there is no objection to doing so from members.

It was understood yesterday that Senator Humphrey, not having had his time in the first round, would be recognized first today.

Having disposed of these housekeeping matters, I would like to comment on the manner in which this committee and its staff has set about preparing for and conducting these hearings.

Mr. Ruckelshaus observed at one point yesterday that more information had been revealed about him in the last 6 weeks than he had ever known existed. Behind that wry statement lies a very important fact about these hearings that I think we should all understand.

It was apparent from the day President Reagan announced his intention to nominate Mr. Ruckelshaus that these hearings would be, at the very least, unusual and probably even unique. The Environmental Protection Agency was in a state of turmoil. Virtually every senior appointee had either resigned or been asked to resign. The news was filled with sordid accusations of sweetheart deals, secret meetings, political hit lists, and illegal activity.

It was also becoming obvious that the situation could deteriorate easily into a partisan political issue and a major focus of debate in the Presidential campaigns of this year and the next year.

After the President's announcement, we knew the nominee was a man with an extensive public and private record. Unlike those previously nominated to the post of Administrator—including Mr. Ruckelshaus himself in 1970—he would come to us with a record of judgments on certain questions. In other areas, whether he had prejudiced a matter or not, there could certainly be the appearance of prejudgment because of what he might have said or done at Weyerhaeuser Co., the American Paper Institute, the National Forest Products Association, his former law firm, or elsewhere.

Whether deserved or not, it was apparent that the Environmental Protection Agency was deeply distrusted by the press, by the Congress, and by the American people. To those of us who watched the Agency mature over the years into one of the finest units of Government, staffed by deeply committed, superbly qualified people, this was indeed a saddening state of affairs.

In the judgment of this Senator a final blow to Agency morale and effectiveness would have been to confirm a well-qualified man only to have the spectacle of the last few months stretch on and on as new revelations were made concerning apparent conflicts of interest, prejudgment of issues, or close ties with the regulated community.

The staff of this committee was therefore instructed to assure that every scrap of information which could be accumulated in these areas was to be collected. Every article written by or about Mr. Ruckelshaus was to be located, listed, and made freely available. Every comment made by the nominee, his employees, or his employers regarding proposed rules, regulations, policies, or other decisions over which he might exercise some influence was to be collected and its contents revealed. In short, any scrap of information relative to his nomination was to be placed before the committee, the press, and the public.

Only time will tell whether we succeeded or not. Certainly, the committee has collected a mass of information unrivaled by any ever assembled for previous nominations at least in this committee, since my experience with it began.

A major reason the committee was able to collect this information in such a short time is that Mr. Ruckelshaus cooperated in every possible way. He jokingly said yesterday that there were one or two letters to his mother in which the environment was mentioned that had not been made public. Frankly, I sort of doubt that. If such letters existed, I am confident he would have given us copies of them.

We undertook this effort to help restore the Environmental Protection Agency and to enhance the ability of Mr. Ruckelshaus to do the same. The information which we have collected makes it clear that there is ample opportunity for charges of sweetheart deals, hit lists, and conflicts of interest to arise all over again. The Weyerhaeuser Co. and its stockholders—not to mention the many other companies and associations with which Mr. Ruckelshaus is associated—have an interest in virtually every major decision now pending before the Environmental Protection Agency. If he were to recuse himself from each and every one of these decisions, it would be impossible for him to function as the Administrator.

In a sense, Mr. Ruckelshaus is about to enter a political minefield. Every step he takes is watched by a thousand eyes. Levels of distrust and suspicion run so high today that the mere possibility of a wrongful act can and will often explode onto the front pages. For the sake of Mr. Ruckelshaus, the Environmental Protection Agency and most importantly the American people, we have tried to identify every possible tripwire in the minefield. His task will be to avoid them as I am confident he will.

In normal circumstances, the committee could demand, and in due course receive, a recusal agreement from a nominee. But the political conflicts here are so diverse and numerous that what we must ultimately rely upon is not a formal recusal statement, but the good judgment and discretion of Mr. Ruckelshaus himself, knowing that he is acting in full public view.

I was personally most heartened yesterday when he spoke of doing business in a fishbowl. That is the only way in which the confidence of the public and the Congress can be restored. Conducting business under a spotlight is uncomfortable. But in times like these the best way to make it clear that you have nothing to hide is to make it impossible to do so. Mr. Ruckelshaus seems committed to enduring this discomfort and for that I applaud him.

Senator Humphrey, you have the first time.

Senator HUMPHREY. Thank you, Mr. Chairman. Good morning, Mr. Ruckelshaus.

I know from our conversation in my office the day before yesterday that you have spent the last several weeks preparing for your likely confirmation. In reviewing the principal matters before the EPA, I want to begin by focusing on the cleanup of hazardous waste dumps, focusing on Superfund. As you know, the fund will have approximately $767 million available for expenditure in 1984, and yet it is proposed to spend less than half of that amount, while at the same time, the EPA has addressed only 78 out of 419 hazardous waste dumps around the country.

Do you have preliminary thoughts on whether more money can be spent in fiscal year 1984 and whether the Congress should authorize budget authority exceeding that already requested?

Mr. RUCKELSHAUS. Senator, as I indicated yesterday, I think that it is certainly going to be important for me, coming into the Agency, to be very aggressive in terms of the abandoned dumps that Superfund is aimed at.

The Congress certainly has been generous in appropriating money to provide the Agency adequate resources to get at this problem. There has been testimony before this committee that one of the approaches that the Agency took was to try to decide the question of who pays before they went ahead and got at the four steps that they have outlined that actually results in cleaning up the dumps.

I think that the current acting Assistant Administrator, Mr. Thomas, has testified before this committee that he sees the problem of the dumps in two parts: One is what is the problem, the nature of the problem, how do we go about cleaning it up; and the second part is, who pays?

We don't need to answer the question of who pays before we go about cleaning up the dumps.

Now, if we get that first part going first, it may cost more money in terms of the Federal appropriation. And it may be this year that the estimate the Congress has before it in terms of how much money is appropriated will be low.

We are going to be aggressive; we are going to get on with the plans and get on with the efforts to get the dumps cleaned up as expeditiously as possible.

That may well mean that the estimates of how much we outlay versus what is appropriated will be increased.

Senator **Humphrey**. Do you think it is likely that it will be increased?

Mr. **Ruckelshaus**. Well, I think it is likely if what I have seen in terms of the testimony before this committee is correct that EPA was trying to decide, first, the question of who pays and then how to clean up the sites. Then I think it will be very likely that there will be more money spent.

Senator **Humphrey**. While the question of who pays is ultimately an important question, it is not nearly as important as getting on with the actual cleanup.

Would you agree that there has been too much delay on the basis of waiting first to determine who pays before we actually do the cleanup?

Mr. **Ruckelshaus**. Yes, I think that is right. From the evidence that I have seen and particularly the information submitted to this committee.

It seems to me there was too much emphasis placed on who pays, as opposed to the first part of getting the dumps cleaned up.

Senator **Humphrey**. We know that there are provisions which permit the EPA to go forward when matters are pressing enough in putting aside the question of who will pay, and I would urge that that course of action be taken much more frequently in light of the historical failure as indicated by the record in that only 78 out of 419 dumps have been addressed so far.

Some of these are horrible threats to the environment. They are more than a threat; they are damaging the environment. I hope that we see real progress in this next year.

Let me turn to the matter of acid rain. I have no doubt this has been discussed already, but I wasn't able to be present at all of the hearing yesterday. The position, so far, of the EPA has been that no concrete action is warranted at this time and that we haven't enough evidence about the causes of acid rain to proceed.

What are your views at this juncture?

Mr. RUCKELSHAUS. As I suggested yesterday in answer to a question from Senator Mitchell, it is clear to me that we have, as yet, not convinced this committee that the Agency and, indeed, the administration have a research agenda that has asked the right questions, with the right kind of milestones established to get at the question of what is the best program available to alleviate the problems associated with acid rain.

I have indicated to the Secretary of State, as he has himself stated, that I would make acid rain a very high priority of mine—assuming this body confirms me as Administrator of EPA—and would undertake a review of the Administration's acid rain policy and try to make sure that it was very clear what the program was to aggressively get at the problem.

Senator HUMPHREY. Do you propose a review of existing policy? Is that what you are saying?

Mr. RUCKELSHAUS. That is right.

Senator HUMPHREY. That is good.

The suggestion or the argument that we haven't enough evidence reminds me of what we hear from the tobacco industry about the connection between smoking and lung cancer and emphysema. They insist that there isn't enough evidence yet to indict the use of tobacco products as agents in causing those diseases.

On this same subject, that is, scientific uncertainty, you said in your statement that, "The agency confronts enormous scientific uncertainty. It often must act before it is clear what the optimum solution will be."

I have no doubt that is the case in the matter of acid rain. The evidence is there that there is acid deposition; that it is causing increased acidity in lakes, principally in the northeastern bodies of water.

But it is also clear that we cannot wait to have absolutely conclusive evidence; that, to use your own words, we must act before it is clear what the optimum solution will be.

Do you think that phraseology applies to the case of acid rain?

Mr. RUCKELSHAUS. Senator Mitchell asked me that question yesterday, Senator. In the first place, I stand behind the proposition that EPA often has to act in areas where there is a lot of scientific uncertainty. My understanding of the science now—and I would be the first to confess it is imperfect—is that there is no question that there is a problem of acid deposition that affects certain lakes in the northeastern part of this country and in Canada and that a major contributor to the deposition is man made.

Now, how you would go about fashioning a program, a program for relief that would make sense for the country to reduce the impact of acid deposition, whether wet or dry, on these lakes with low buffering or areas with low-buffering capacity, is where it is unclear.

If, as some of the legislation has suggested, you could reduce sulfur oxides by 50 percent, it will, undoubtedly have some effect.

Whether that effect would be commensurate with the costs and whether the costs themselves are properly allocated under the current formulas are issues that I think have to be addressed with some degree of urgency if we are to suggest to the Congress an approach to this problem that makes sense.

Senator HUMPHREY. Well, it is a matter of urgency. I am glad that you are, at least, convinced that acid rain is a real problem.

There remains some doubt in your mind, apparently, how we can best attack the problem. I hope that you will give this a high priority and that before too many months go by you can come to some kind of decision on how to attack this problem. Will you make that a priority?

I mean, if you recognize it as a problem, let's set the EPA on a course that will determine, on a near-term basis, how to attack the problem in a cost-effective manner if that is the way you look at it.

Mr. RUCKELSHAUS. Yes, I certainly will make that commitment.

Senator HUMPHREY. Fine.

I suppose I haven't much time left, so let me turn to the budget of the EPA. I imagine this has been gone over, but as you probably know, the operating budget of EPA has fallen steadily since 1981. The request for 1984 is $949 million versus, for 1981, $1.351 billion.

What are your general thoughts?

Do you think that this downward trend is justified?

Is the 1984 request sufficient?

Mr. RUCKELSHAUS. As I indicated, Senator, my view on the budget is that we must take a very careful look at what the requirements for the Agency are in terms of the congressional mandates; what the needs of the Agency are to carry out those mandates, and that is a very high priority of mine. Assuming that I am confirmed by this body, I will certainly undertake a thorough review of those budgetary needs, and if I determine, working with the Administration, that there are needs for additional manpower or money, I will come back to the Congress and ask for an amended 1984 appropriation.

Senator HUMPHREY. Fine.

As I understand it, you conducted extensive consultations with the administration.

Did the subject of the adequacy of the EPA's budget come up during those consultations?

Mr. RUCKELSHAUS. Yes, it did, and I told the President at the time that I had, of course, witnessed the decline in the appropriation for the Agency. I had seen and read many of the charges that were made that the Agency was underfunded. I had no preconception as to whether there was a justification for this criticism, but I was convinced that there was no way that it was possible for me to come before the Congress in a defensible posture unless I was able to represent to the Members of the Congress that we had adequate resources to carry out their mandate. I wanted assurance that if I were to look at this budget and conclude that we had additional needs, that we would be able to come forward and meet it.

Senator HUMPHREY. So you have assurances that if you are to request a higher budget for EPA, the administration will support it?

Mr. RUCKELSHAUS. I have assurance that I will get a more than fair hearing within the administration. Senator, I am not going to represent to this committee that I have the ability to just make my own decision as to what the budgetary needs are and come forward without working through any budgetary process.

This administration does have a budgetary process, and it is one that I have to work within. But I have as much assurance as I have ever had with any administration I have ever been associated with that I will get the kinds of resources needed to be able to represent to this Congress that we can carry out its mandate.

Senator HUMPHREY. Very well.

Thank you, Mr. Ruckelshaus.

Mr. Chairman, I have other questions.

Senator STAFFORD. Thank you, very much, Senator Humphrey.

I note that Senator Symms, who yesterday said he would support the nominee by speaking either for him or against him, whichever would do the most good, is here.

So we will see, Senator, which tactic you are following today.

Senator SYMMS. Thank you, Mr. Chairman, and nice to have you back here again, Mr. Ruckelshaus.

Along the line of the questions about the budget that Senator Humphrey asked, I am not as concerned about how much money EPA actually has to spend to carry out its responsibilities. In terms of the total cost of a commitment to the environment, whether it is $900 million, $1 billion, or $1.1 billion, even though it is a lot of money, the difference between $900 million and $1.1 billion, is money well spent if we are using a commonsense approach to these problems.

I think that from my conversations with you, you would probably agree with that.

The question I have is, the Commerce Department, says that this country has spent $60 billion on pollution control in 1981. By comparison, I think $60 billion is more money than the total expenditures of the Canadian Government on an annual basis, but we spent that much just on an annual basis of trying to do the things that we have set up with our rules and regulations.

I hope that you will be able to address that side of the equation equally, and I am sure that you will be interested in that and shed some light on that for the American people.

Do you have any comments about that? Do we get our $60 billion worth, or do we go to the point where we get 99.5 percent of the particles cleaned up, and then we spend $20 million more on a powerplant that comes to mind that I had something to do with a few years ago, and then they spent another $20 million to get the last few points or so of particles, and, you know, for the first 99.5 percent, it seemed like it was a very good investment.

For the last little bit, sometimes I question it.

Do you have any thoughts on that of how we might shed some more light on that subject?

Mr. RUCKELSHAUS. Senator, I think two things have to be said about that: One, most of the studies I have seen—and these are very hard studies to do—on the macroeconomic effects and benefits of our pollution control programs, starting with the Clean Air Act back in 1970 and then the Clean Water Act in 1972, indicate that there is at least a rough equality or even better in terms of benefits versus the cost.

Getting into macroeconomics in this area is a real swamp. You can find economists who will testify on either side.

But I have looked at some of those studies, and I believe that the overall effort that we have made in the last 13 years has resulted in appreciably better air and water quality over much of the country.

As a country, we have made remarkable progress in the last decade and a half in cleaning up the environment. We really ought to take hope from that, and we really ought to be feeling pretty good about how far we have come.

That is not to suggest that we don't have more problems that don't crop up every day. In this toxic area, they certainly have accelerated since I was here several years ago.

But where I have raised questions is in some of the areas that you have just mentioned, and that is, not in the macro sense of whether we are getting an overall benefit commensurate with what we are spending nationwide, but in the micro sense. I cited a specific example in my testimony here 2 years ago about a plant that Weyerhaeuser had in the southern part of the State of Washington relating to the same sort of issue you raised where we went from zero to about 90 percent removal of particulate matter at a cost of $4 million in an air quality region in the southeastern part of the State, or southwestern part of the State, and then under a technological requirement, called RACT, reasonable available control technology—we were forced in this particular facility to spend another $6 million, 50 percent more than we spent the first time, to remove 6 percent more pollution, more particulate matter.

On all the monitoring stations that were around the plant, there was no——

Senator **Symms**. There was to change.

Mr. **Ruckelshaus**. Benefit associated with that expenditure.

Now, that is the question which I think the committee ought to address.

What I suggested 2 years ago was if that is an isolated incident, if that situation that I laid out before the committee is not happening in other industries in other parts of the country, then it may just be an aberration; it may be that that is not typical.

My belief and my understanding of this is that it is typical and that we ought to, as a Nation, not force that kind of result. If we wanted to spend that money on air pollution, there are a lot better targets than that particular one, even within a company like Weyerhaeuser.

I think the question is whether we are, in fact, causing in some instances in our environmental laws, those kinds of expenditures where the benefits are very minimal or even immeasurable such situations ought to be reviewed by Congress. If the facts are as I have described I think we can alleviate that kind of problem by giving the Administrator more flexibility to deal with it.

That flexibility is currently not present in some sections of this law. When I testified here 2 years ago, if there was one common theme that the three of us who had been Administrators of this Agency for the 11 years of its existence, Mr. Train, Mr. Costle, and myself, one common theme we all struck, it was: Give us more flexibility. Let us have the ability to deal with those kinds of problems.

Now, I recognize this is probably the worst time in the history of this country to be asking for more flexibility for somebody in an agency like this because of all the problems that the chairman has stated.

Those problems are there.

Senator Symms. I appreciate what you are saying, and I appreciate your answer greatly, and I also appreciate your earlier comments about making headway.

We don't need to whip ourselves completely into the corner even with all of the controversy surrounding EPA.

I note that last year, which was under your immediate predecessor's administration, the EPA used Superfund moneys to run some tests in Pocatello, Idaho, where there was a potential PCB problem. They actually went out, did the drilling, and came to the conclusion that there was not an emergency situation. They actually went out and did the work to allay the public fears that there was some kind of a toxic waste problem. And, yet, we never hear about the times when EPA has done some things on the positive side, and I feel bad that we don't get some credit occasionally along that line.

I just have two other brief questions I want to ask: I appreciated your entire statement yesterday. I think you did an excellent job of putting it together. It is obvious you have given it a lot of thought and that you are going to be able to give competent management to EPA, and I really look forward to that.

I just hope, and I think if I heard you correctly, you said this in your testimony that competence, experience, and honesty are necessary qualifications, and I think you also said—and just correct me if I am wrong—that these people still have to be competent, experienced, honest, and have the background and knowledge capable to do the job. There still is a reconciliation there from yourself and the administration, and, I think, this committee should recognize, that these people are policymakers and that they are not expected to come into the EPA having been, say, detractors of President Reagan.

Mr. Ruckelshaus. Senator, these are Presidential appointees. They are named by the President, and I don't doubt for a minute he is not going to appoint somebody that he is not comfortable with and that simply because I recommended somebody for an appointment, if it turned out they were antagonistic to the President——

Senator Symms. I see, I appreciate that.

What you are really trying to say to the committee, and so there is no misunderstandings, is that, if you are not happy with the President's appointee, the President is not going to shove him down your throat just because he happens to be a die-hard Reaganite. But you are not going to do the contrary, somebody is not going to be put in there that is not at least loyal to the general direction that you, the President, and the other members of the cabinet are going.

I appreciate that. I just wanted to clarify that.

I just wanted to say one other thing this morning in terms of a statement. I don't know if it was discussed when you had your meetings with the President, and it was one thing that has frankly bothered me greatly, and that is about what happened with the past Administrator, and that is the question of the Justice Department and the legal fees defending another cabinet officer.

I don't know whether that ever came up in your conversation with the President, but I hope you are taking that into account when you come back to this job; I hope that you are keeping in consideration that your predecessor is still paying her own legal fees which I think is a real traversty of justice.

In my opinion, she was a good soldier. The administration told her what to do against her advice with respect to withholding those documents and now she is out on her own defending herself.

I hope that you made some agreement with him that if they get you in that situation, that you are not expected to pay your own legal fees.

Mr. RUCKELSHAUS. Senator, that is one subject I didn't discuss, but now that you mention it maybe I should have.

Senator SYMMS. Maybe you could have a small part of Superfund to defend the directors of EPA.

I offered an amendment last year to this committee, which was not accepted. It dealt with the question of carbon monoxide emissions standards for automobiles and the problems we run into in the environmental movement, which is very emotional. I know a lot of sincere thought is given to both sides of the issue.

The clean air coalition immediately came out with a press release and it was widely publicized across the country; it said the amendment would condemn 40 million people to perpetual dirty air. It was a gross distortion, but nevertheless, those kind of tactics are used.

I hope and I wish you every success, and I do think that you will be an Administrator that will be able to deal with those kinds of distortions and have the public confidence.

You will certainly have my enthusiastic support to bring a lot of life on questions like that so that we can get away from some of this demagoguery that takes place with what I think are tactis that are unnecessarily alarming to the public in this question.

I look forward to a good future with the EPA restoring a lot of public confidence. So we are doing a better job than the public generally thinks.

Thank you.

Senator STAFFORD. Thank you, Senator.

Now we will resume the regular rotation on the 10-minute basis that the chairman mentioned when we started.

Mr. Ruckelshaus, you set out in some detail in your letter of April 25 to the Office of Government Ethics your plans to divest yourself of any financial interests in entities regulated by EPA. That letter is part of the public record, and without objection, it is the Chair's intent now to make it a part of this hearing record, as well. [See p. 316.]

In that letter, you also discuss your plans of recusing yourself from anything that might constitute conflicts of interest.

You state your intention as follows:

> Throughout my service as EPA administrator, I will also rescue from participation in any particular regulatory or adjudicator in which any of the entities described above is a party in interest; and, secondly, that either (A) was pending before EPA at the time I was affiliated with that entity, or (B), involves a matter with which I was directly and substantially involved while affiliated with that entity.

The committee has received from EPA a list of comments made by Weyerhaeuser during your affiliation with the company on regulations or policies proposed by the Agency. [See p. 362.]

Is it correct to say that it is your intent to recuse yourself with respect to any of the matters that come before you during your tenure as Administrator?

Mr. **Ruckelshaus**. Senator, Mr. Chairman, could you read the last part of that question again, so I can get it?

Senator **Stafford**. Yes, the committee has received from EPA a list of comments made by Weyerhaeuser during your affiliation with the company on regulations or policies proposed by the agency.

Is it correct to say that it is your intent to recuse yourself with respect to any of those proposals that come before you during your tenure as Administrator?

Mr. **Ruckelshaus**. Mr. Chairman, the second paragraph under recusal on page 2 of my April 25 letter to the Office of Government Ethics, is the paragraph that is operative in this case, in my own mind, and there is a kind of three-part test which I will apply as Administrator; namely, if it is a particular regulatory or adjudicatory matter in which any entity, Weyerhaeuser or any other entities with which I was affiliated described above is a party in interest, and that is a more specific kind of statement than that they commented on a rule or regulation that may be pending before the Agency. In some instances, there may be 50 different industries or 50 different kinds of industrial associations commenting on various regulations.

The third part is really a two-part test. The matter either was pending before EPA at the time I was affiliated with the entity or involves a matter with which I was directly and substantially involved while affiliated with the entity.

Now, that is a somewhat narrower test than recusing myself from all matters on which Weyerhaeuser has commented. In the next paragraph, I do say that even beyond that, I may decide to recuse myself from some areas in which the company has either been active or I have been more directly involved, and I could give you examples of which I will specifically recuse myself.

One had come up here before in the case of the herbicide, 2, 4, 5-T. That is one in which I will recuse myself, both because I was involved in it when I was at EPA and because the company has been active in the deliberations of the Agency on that matter.

Formaldehyde is another one in which I don't think there is any legal requirement for me to do so, but the company has been active enough in the evaluation of the issue that I think I should recuse myself.

Senator **Stafford**. Thank you.

I applaud your endeavor to take every possible step to maintain the public trust and confidence in the fairness and decisions to be reached by the Agency.

I don't, however, want to see the head of the Agency have to step back from making many important and tough decisions.

I hope you can assure the committee that the number of instances in which you will find it necessary to delegate decisions to others will be few.

I personally believe you are exceptionally well qualified to make these decisions, but whether you do personally or not, this Senator, and I believe the public and this committee, will hold you responsible for the conduct of your Agency.

Mr. **Ruckelshaus**. Mr. Chairman, I appreciate that, and I think the committee should. I do feel that I am capable of participating very fully in the decisionmaking processes of the Agency.

I noted last year there were some 340 regulations that were issued by the Agency. That gives me plenty to do without worrying about my former affiliations. I have no doubt that with the agenda that I have laid out to this committee that I will be fully occupied and expect this committee to hold me responsible for the operation of the Agency.

Senator STAFFORD. Mr. Ruckelshaus, in your letter to Mr. Scott [p. 316], you went into some detail—and I won't attempt to repeat it here—in the plans for divestiture of your various holdings in corporations and the severance of your association with several corporate entities that you, then, associated with in the past for which I must say I applaud you a great deal.

But I think it might be well for the record, additionally, to the letter, while we are all here and the press is here, if you will briefly describe to us your plans for economic health immolation, I might say.

Mr. RUCKELSHAUS. Mr. Chairman, I get a stomach ache when I start talking about this, but I will try to get through it.

What I intend to do is to sell every share or exercise every option for the purchase of shares in any of the companies with which I am affiliated as quickly as possible after I am confirmed.

I have a process set up to do that. There are one or two complications which are, again, spelled out in the letter involving some warrants with the Peabody International firm and with some stock held in a Canadian firm which will not be eligible under the SEC rules for sale until July 1.

Other than that, I will sell these shares as quickly as possible.

I might say, Mr. Chairman, I just don't see any way to do it other than that. There is no way in which I can exercise regulatory responsibility over any entity in which I have any financial interest, and, therefore, I simply have to divorce or divest myself of any financial interest in any of these entities.

Senator STAFFORD. Well, I very much applaud what you are doing. I think it is a very admirable act on your part.

We have already spent a considerable amount of time attempting to ascertain your personal philosophy, Mr. Ruckelshaus. There remains, in my mind, something of a contradiction among certain statements you have made in the past.

In an article which appeared in the October 1980 issue of Industrial Development magazine, you were quoted as follows:

> I have often been asked what it feels like to be on the other side. My response is that I didn't think I was on the other side of the private sector when I was in the government.

That, I think, reflects one view of Bill Ruckelshaus, a man who sees an issue essentially the same whether he is inside Government or outside.

On the other hand, shortly after President Reagan announced his intention to nominate you to head EPA, you met with 1,000 or so Agency employees at a rally here in Washington. At that rally, you were quoted as saying the following:

> My job as a lawyer was to represent my clients. My job at Weyerhaeuser was to represent all the stockholders in that enterprise. My job as EPA Administrator is the same today as it was when I held that job once before, and that is, to best represent the public interest to the very best of my ability.

To this Senator, at least, that reflects a somewhat different view of Bill Ruckelshaus, not a man whose view of right and wrong is the same without regard to what hat he is wearing, the man whose view is determined at least by where he sits and by whom represents.

If the first view of Bill Ruckelshaus is the correct one, then I take it the positions which you adopted as a vice president of Weyerhaeuser and a lawyer will be unchanged as Administrator. You will still believe that the Dingell-Broyhill amendments to the Clean Air Act, H.R. 5252 after the last Congress are good changes to make in the law, and you will also believe that the proposal to allow a degradation of the quality of receiving water is a good one. Which of these Bill Ruckelshaus is correct, and if it is the latter, the view quoted in the Washington Post article, do you personally believe that there is no difference between the interests of the American public and the interests of the American industry?

Regardless of whether you believe there is a difference between the interests of the American people and American industry, do you understand that the people of this country think there is a very considerable difference between the two?

Mr. RUCKELSHAUS. Well, I can certainly answer the last part of your question, yes, Mr. Chairman, there is a perception, particularly in this area, among the American people that what we are talking about is the vested interest versus the people in the whole area of pollution control.

After having left the Government some 10 years ago, if there is one question I have been asked more than any other, it is, "What does it feel like to have changed sides?" The quotation that you read in that magazine is correct. I never thought of myself as being on the other side when I was in government.

My own belief as a lawyer and as a representative of a major American corporation is that their interests were best served when it was possible to identify those interests with the public interest. When that is not possible, they're in trouble, and I can cite examples where I have told the people of Weyerhaeuser and others that if the Government were to move against Weyerhaeuser and it caused Weyerhaeuser to spend some money and the public interest was benefited, that is too bad for Weyerhaeuser.

But if the Government moved against a company like Weyerhaeuser, forcing Weyerhaeuser to spend some money, and there was no public benefit associated with it, in my view that is too bad for the country, not too bad for Weyerhaeuser, and that is a distinction which I think is sometimes lost.

Mr. Chairman, I have resisted throughout my life attempting to fall victim to Miles' law that where you stand depends on where you sit. I have had, I think, some successes in avoiding that. I would be less than absolutely candid with you and this committee if I tried to claim I had always succeeded depending on the particular circumstances that surrounded my position at the time.

But I do not believe you can be effective in or out of government unless you are able to view the world from the other person's perspective. Unless we are capable of narrowing the gap that exists between the Government and the private sector, I believe very strongly that our country is in trouble. Uniquely among the industrial nations of the world, we have this chasm between the public and private sector in which we stand there and throw rocks at one another. There are chasms between other sections of our society, whether it is the general public, the environmentalists, management, and labor, which I just don't think we can any longer afford. The endless, constant strife that exists ultimately works to the detriment of much of what our Nation stands for.

To the extent, I can help narrow that gap in coming into the EPA, I think I will have performed a service.

Sentaor **Stafford.** Thank you very much, sir.

Senator Randolph, having arrived from another pressing matter that I mentioned at the outset of the hearing, the Chair would turn to him next.

Senator **Symms.** Excuse me, Mr. Chairman, and Mr. Randolph. May I make a public inquiry?

Has the Chair stated when our intention to vote on the nomination is?

Senator **Stafford.** No, because the Chair hasn't had an opportunity yet to consult with the ranking minority member. The Chair could give you an expression of hope, but that's all it is, recognizing that the Chair has only one of six votes here, and that is, it would be the Chair's hope that we could be prepared to vote on the nomination at the next regular meeting of the committee which would be next Tuesday.

Senator **Symms.** Any way we could set that up and do it this week?

Senator **Stafford.** It doesn't appear that way at the moment, I would say to my friend, but we need to consult with our counterparts before we——

Senator **Symms.** I just say, from my point of view, I wish that we could do it as soon as possible, and I would like to urge the Chair and the ranking member to do it as soon as possible.

Senator **Stafford.** Well, nobody is more anxious to get this done than the chairman and, I am sure, the ranking member.

Senator Randolph.

Senator **Randolph.** Thank you, Mr. Chairman.

Due to the failure, Mr. Ruckelshaus, of the Agency to accomplish effluent guidelines in what I call a timely fashion after the 1977 amendments to the Clean Water Act, many industries, as I have checked it, will be unable to meet the 1984 deadline. I presume that you are committed to keeping the court-approved schedule for publishing these guidelines.

But do you support legislation such as the measure I have introduced, Senate Bill 432 which would allow extensions for—and now we quote—"Best available technology" and recently issued best practicable technology requirements?

Mr. **Ruckelshaus.** Senator, if I understand your question, I do realize that as a result of the Agency not being able to issue the effluent guidelines in time for certain industrial categories to comply with the 1984 deadline there may be a necessity to extend that deadline in legislation pending before the committee. I recognize that necessity is there, that it's physically impossible in some instances, without the effluent guideline having been issued, for certain industrial categories to achieve the deadline.

There is some dispute as to how far out that deadline should be extended; I recognize that. But I think we have to extend it. I don't think there is any choice but for this committee to do so. And therefore, I would support some extension. I don't know enough about the problems associated with meeting particular deadlines to know how far out it ought to go.

Senator RANDOLPH. Thank you very much.

I think that is certainly a satisfactory answer to me and my concern in this matter.

On Tuesday, Mr. Ruckelshaus, several witnesses mentioned your decision on DDT as a reason given for perhaps opposing your nomination. I had thought that the ban on DDT had become a settled issue. I want you to comment on the allegations that have been made in Tuesday's testimony on your decision on banning DDT.

Mr. RUCKELSHAUS. Senator, these decisions, as I have discovered, are never settled. Another thing that struck me anew in deciding to come back to EPA is how hard these decisions are. It is not easy to decide, if you are Solomon, what should be done with a substance like DDT. It was one of the hardest decisions I ever made in my life.

Since making that decision in 1972, there have been people in this country who have spent a career attacking it. You heard some of them quoted here in testimony on Tuesday. The attacks on the decision itself have reverted into attacks on me personally. That is all part of the arena into which I step. I understand that.

The attacks, to the extent they indicate that I made political, with a Big P, decision are absolutely erroneous. One of the letters that is in the record of this hearing before this committee indicates the distinction that I make in my mind between a Big P and a Little P decision.

What we are talking about in most of these areas is a society trying to decide what risks it is willing to take in return for what benefits.

The Federal Insecticide, Fungicide and Rodenticide Act specifically mandates that the Administrator of EPA weigh the risk and benefits in deciding whether a particular pesticide should be used. I personally reviewed much of the record in the DDT hearing. There were three scientific advisory committees, starting in 1963, that recommended the phasing out of the use of DDT.

I personally sat through 2 days of hearings myself that I scheduled after the hearing officer had reported so that both sides could be heard regarding DDT; a 51-page decision was written, largely with my supervision and largely with my editing in the DDT decision.

Most of the people who criticized the DDT decision have never read that 51-page decision.

It is a very complicated and very close matter. I think reasonable people can differ as to whether that was a wise decision. If I had to make it over again today, I would do exactly the same thing. I did not ban the use of DDT in Ceylon or anyplace else in the world where people say malaria has increased as a result of my decision. The reach of the Administrator of EPA does not extend beyond the boundaries of this country, at least so far.

Where anybody wants to regulate a substance of that kind anyplace else in the world, that is up to them. This is just my judgment based on the problems in this country.

Senator RANDOLPH. It wouldn't reach El Salvador.

Mr. RUCKELSHAUS. Fortunately not.

Senator RANDOLPH. Thank you for a little levity which, perhaps, is not too bad.

We have listened to your intention as to a needed extension of the Superfund. You have advocated that, have you not?

Mr. RUCKELSHAUS. Yesterday, Mr. Chairman, I indicated that I didn't know whether that was the precise formula, and I certainly have no doubt in my mind that this country has embarked on a course of cleaning up those dumps. The current statutory framework is the Superfund, and whether it is that or some other framework, we are clearly going to clean these dumps up.

Senator RANDOLPH. I think, Mr. Ruckelshaus, that you should know, at least from my standpoint, I believe that there is a necessity to create a mechanism to better compensate the victims of exposure to toxic substances and for the medical expenses and whatever losses there might be. I support—perhaps you know this—legislation to provide such compensation. I have cosponsored many bills for this purpose. Do you think that the administration, which you will be a part of, would support legislation in the area of hazardous substance victim compensation?

Will you, if that is done, have what we would call a substantial role in taking the administration viewpoint and discussing it and attempting to move it forward?

Mr. RUCKELSHAUS. It clearly is an issue that the administration will have to deal with. I have some views on the whole issue. I think it is a terribly important one for this society to grapple with. I do not, as of this point, know how prominent or deep my role will be within the administration on this issue, and I think you are wise, Mr. Chairman, in attempting to schedule very broad hearings on the question.

Certainly, I am sympathetic to the people who have been adversely affected by toxic substances. They are often innocent in terms of any involvement, even in the terms of financial benefit associated with the impacts that toxic substances have had on their lives, and I think that you have to divide these issues into several publics. There are a lot of publics affected by various kinds of victims' compensation legislation including publics associated with the entities that might be affected if they were the ones—the producers of the substance—that had to, in effect, compensate the victim.

What this may well imply is some sort of national insurance program of some kind. I don't know what the final answer is, but I do know that it is a complicated subject and certainly some effort on the part of this society to look with sympathy on the victims of these substances is a worthy one.

Senator RANDOLPH. Mr. Ruckelshaus, I personally would hope that you would consider this a priority, of course, with other priorities, naturally, which you will face.

I have discussed this subject with our capable chairman, and I know that Senator Stafford and I both realize the difficulty of the area in which we would work, but we believe that there should be some type of realistic program which should include compensation.

Do you agree with us on that premise, at least, at the beginning.

Mr. RUCKELSHAUS. Mr. Chairman, certainly a thorough examination of how we should go about, as a Nation, looking at the targets of various substances which we have been using for many decades is a worthy one.

What the precise approach is to insure that those unintended targets, those victims, are in some way compensated is something that I think is worth pursuing, and I would be glad to make that a priority and participate in the administration's efforts to come to grips with it.

Senator RANDOLPH. I am running out of time, and I want to cooperate fully. Just this final question at this point, at least.

You know we are moving into the reauthorization of the Clean Air Act, would you reevaluate the administration's 11 principles? Will you be urging this administration to submit or support substantial amendments to the Clean Air Act, Clean Water Act or other environmental statutes?

Mr. RUCKELSHAUS. Mr. Chairman, I would expect personally, and this administration, to be an active participant in this committee's review of the basic laws that EPA administers.

Whatever approach will faciliate the process by which those laws are reauthorized or by which those laws are reviewed, I would like to participate in and push. Whether that means that we should come forward with a bill, for instance, on the Clean Air Act, I have some serious doubt. I don't know whether that approach would facilitate the process or not. I would hope that, working with this committee, with the chairman, with other members of the committee, I could make my views known, the administration's views known and if an administration bill would help move the process along, that's the approach I would take.

I have reservations as to whether that would happen. I think that if the administration, at this juncture, surfaced a bill that was consistent with those principles or even consistent with some different set of principles, the result might well be just further division, further rancor and further emotionalism surrounding the issue which I, frankly, thought 2 years ago was such that, as I suggested yesterday, I dropped out of this whole thing.

After about June 1981, I concluded that the emotion was so high that to spend a lot of time at it, at least as far as I was concerned, really wasn't going to be very fruitful. So I essentially dropped out of it.

But I have dropped back in again, Senator.

So my response to you is "Yes," I will be pursuing this very vigorously.

Senator RANDOLPH. You cannot avoid it, sir.

Mr. RUCKELSHAUS. I understand.

Senator RANDOLPH. Mr. Chairman, you have been very kind to let me run an extra minute, and I will cut myself off next time by an extra minute or two.

Senator STAFFORD. Thank you very much, Senator Randolph.

Following our usual custom, next will be Senator Mitchell to be followed by Senator Chafee.

Senator Mitchell.

Senator MITCHELL. Thank you, Mr. Chairman.

Mr. Ruckelshaus, in your letter of June 18, 1981, to Vice President Bush [p. 413], you said that, "The Congress is largely ignorant of the impact of the Clean Air Act." Did you have any particular Members of Congress in mind?

Mr. RUCKELSHAUS. Had I known that it was going to be on the billboard that I suggested, Senator, I may well have used the word "unaware" instead of "ignorant." I didn't have any particular Member in mind.

Senator MITCHELL. In view of this committee's oversight responsibilities, would you be good enough to at least exclude us from that category and let the other 525 or so Members wonder about it?

Mr. RUCKELSHAUS. Prudence would certainly dictate that I do that, Senator.

Senator MITCHELL. I want to make a comment on your response to Senator Humphrey's questions regarding acid rain in which you, commenting on the proposed 50-percent reduction in emissions, said that the question is, "Is the effect commensurate with the cost?"

The comment indicates a state of mind which accepts the argument that this is a new cost to be imposed upon certain seqments of our society. I merely point out to you for your consideration in this matter that that is not the case, that there is already a cost being exacted from our society, it does not happen to be borne by those who would bear the cost under the legislation.

One estimate by a scientist is that that cost is as high as $5 billion a year, and so I ask you to bear that in mind. This legislation does not create new costs. It involves a reallocation of costs away from those who are now bearing the burden but receiving no benefit to those who are receiving the benefit but bearing no burden with respect to that aspect of endeavor.

And it also points up, really, the whole problem with this so-called cost/benefit analysis or risk assessment to which you also referred in your letter to Vice President Bush, and that is, in the area of environmental control, it is a rather easy task to place a value upon the cost of control but a rather difficult task to assign a dollar value to the benefits derived from that control. We know what it will cost to install a scrubber in a particular utility plant, but what is the value of the human life? What is the value of 100 human lives? What is the value to our society of the destruction of hundreds of bodies of water? What is the value of the presence or absence of the Atlantic salmon from rivers in Maine and Canada?

Those are very difficult questions. They do not lend themselves to easy answers, but I submit to you just because it is difficult to assign a dollar value to a benefit does not mean that the benefit does not exist. And I hope you will keep that in mind in making your evaluation.

My final question on the subject of acid rain is, you have promised a review of administration policy, and that suggests some date upon which you will reach a conclusion and announce a decision.

Do you have any idea in mind now as to when that might be?

Mr. RUCKELSHAUS. Senator, let me respond to those questions one at a time. I indicated that the expense, the cost, of 50-percent reduction should be roughly commensurate with the effect or the benefit, and I agree with you that a cost/benefit anaylsis is fraught with peril in this area. I also agree with you that it is easier to assess the cost of a particular scrubber or a particular abatement strategy than it is to assess the benefit.

I also agree with you—and I have said it many times—that that does not mean that we don't assign some sort of value to the benefit, and maybe if the value is a rather evanescent public health kind of concern, nevertheless it might be assigned a higher value because we place such an important premium on public health.

I also agreed with those critics of the cost/benefit analysis that it can be abused and has been abused in the past. I guess the reason I think it's still worth using is because I don't know of any better system of trying to assess exactly how our society should try to manage risk; and that if we want to ascribe a higher value to public health, in terms of dollars or in terms of a dollar value to esthetics, then we should do so, and we should not shrink from doing so simply because an economist can't tell you exactly what that value is.

You, as a former judge, Senator, recognize that it often is necessary in a tort action to ascribe a value to the loss of a limb, to the loss of sight, to the loss of a life, and ascribing that dollar value is a thing to do, but it is assigned by a jury, and a jury often comes up with a conclusion as to what it is worth.

Therefore, I do think it is possible to properly use a cost/benefit analysis, recognizing that it is an imperfect tool, and it is only one tool to arrive at a solution to some of these environmental problems. My comments on acid rain, as they related to the cost versus the benefits of an acid rain control plan, were not an effort to assess what the cost had already been or what the absence of the benefit had already been to those lakes in the Northeast or in Canada.

My concern is whether we are actually going to get some relief from the additional costs, if that is the way we want to think about them, to lakes that will deteriorate, to acidify. We need to determine if that is the best control technology or best control strategy we can use to avoid additional deterioration, not only in your regions, but in other regions which may be affected by acid deposition.

That is the kind of analysis that I am concerned about, and those are the kinds of questions that I have in my mind. And finally you ask, "What is the time frame?"

I think there is significant pressure to try to come to a conclusion as to a strategy for dealing with this problem pretty quickly.

I don't know enough about what the potential might be for an advisable approach to it. I don't know whether I am ever going to be able to satisfy you in terms of the approach that I take, but an approach that I think in the public interest would look at the problem nationwide. I think one very important thing that has to be addressed is that if we are to develop some sort of control strategy, how do you pay for it? That seems to me to be a very important issue in this debate, and I don't come at it with any preconception. I really don't.

But I will promise to you, as I did yesterday, that I will get at this as quickly as I can.

Senator MITCHELL. I appreciate that. I just want to say on this whole cost/benefit analysis, Senator Symms has cited the cost to the Nation annually in pollution control. It is a very high figure, and viewed in isolation, some might regard it as excessive, but I submit to you that if a reasonable, objective cost/benefit analysis could be made, that the benefits would far exceed the cost and we would find that the American people's attitude of strong support for that legislation, notwithstanding the cost, is well grounded in the reality that the benefits are very great; intangible, perhaps; difficult to assign a value to, nonetheless, very, very great and one of the reasons, I think, why there is an overwhelming support of the American people for such strong, strong environmental protection legislation.

Mr. RUCKELSHAUS. Senator, I did respond to him, and in terms of the macroeconomic impact, the benefits seem commensurate with the costs. I don't really disagree with that statement. I think we have made remarkable progress against air pollution. We spent a lot of money doing it, but we have made a lot of progress. The studies that I have seen that try to argue both sides, I indicated that the benefits have been commensurate with cost.

I would agree before this committee that on the micro basis, not on the macro basis, what the committee should attempt to do is to avoid imposing specific requirements on specific discharges or specific emissions through technology-based standards where any sort of cost/benefit analysis would show you, you are not getting the benefits commensurate with the cost. We are right down to a specific body of water or a specific air shed. I dare say anybody on this committee who took a look at it in terms of the way I have seen it would come to the same conclusions, that that doesn't make any sense.

That is the factual area where I think this committee could do some useful work.

Senator MITCHELL. I would like to turn to another area. There has been much discussion about the degree of independence you will have from your discussions with the President. I think we can all, yourself included, learn something from experience. I would, then, like to ask you a series of questions which are all related and ask you to comment generally.

First, they involve the relationship between the EPA and the Office of Management and Budget, both during your tenure as Administrator of the EPA and as you understand it currently. With respect to your tenure, there was, as you know, what is known as a quality of life review. I would like to have you tell us what your understanding of that review process was. Were you satisfied with it? What deficiencies were there? Did you attempt to get it changed?

As a result of that review, were regulations ever changed as a result of OMB action or regulations weakened? Was the pace of regulations slowed? What is the current practice under the current administration as you understand it, and how does it differ in any significant respect from the review process under the Nixon administration when you served in EPA?

That's a series of questions, but they're all related, and I wondered if you could comment on that.

Mr. RUCKELSHAUS. I, of course, have no firsthand experience with that program in this administration. I have discussed the way in which the system works with representatives of OMB. I have reviewed the April 25, 1983, OMB release regarding this program. It seems to me that it is much better organized now than it was before.

The so-called quality of life review process was established when I was first at EPA in 1970. It was a very cumbersome, very poorly thought out approach at the time which got better as we learned more about it and got more into it. It was certainly frustrating to me to try to work regulations through this process.

On the other hand, I, frankly, welcome the review of regulations coming out of EPA or any other agency, for that matter, to insure that they generally conform with sensible practices, that they generally conform with an approach that tries, to achieve a common good and to maximize individual choice in the process of providing that good.

The Clean Air Act and the Clean Water Act both mandate me, as the Administrator of EPA, to coordinate what I am doing with other governmental agencies. To the extent that OMB is attempting to help in that coordinating function in a way that gives other agencies of government an opportunity to comment on existing regulations, I think that's fine. I think that's an approach it should take. OMB makes explicit in here that where the Congress has said for a particular regulation, "You should not include cost as part of the consideration" they still would like to see a cost/benefit analysis done, and attached to the regulation when it is issued, even though the regulation itself, following what Congress has mandated, doesn't permit the decisionmaker to take cost into account. I don't see that as an excessive burden on me.

I am sure that there are probably delays and frustrations in this process, particularly where there are statutory deadlines.

Where there are deadlines that Congress has set for the issuance of certain regulations, OMB has explicitly stated it will not stand in the way of those deadlines being met. Again, as I understand it, it has not done that in the case of EPA.

The decisions ultimately to be made are to be made by the Administrator of EPA. You asked whether there were any changes made as a result of that process. Occasionally there are.

Where the process points up parts of a regulation that either don't make sense or ought to be changed in some way or another, and I am not receptive to those kinds of inputs, then I think I may not be doing my job.

But I think that those changes should be made public, and what considerations were taken into account in making those changes.

Senator MITCHELL. My time is up, so I will defer to the next questioner, and I will pursue that further in my next round.

Thank you, Mr. Chairman.

Senator STAFFORD. Thank you, Senator Mitchell.

Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman.

Mr. Ruckelshaus, I notice that each Senator has asked you to make one thing or another a top priority. You are getting a host of top priorities levied on you.

In my judgment, the two single biggest environmental concerns are acid rain, which Senator Mitchell has long been a leader in, along with the deep concern shown by Senator Humphrey—and it is a matter that concerns me also—and I join in the sentiments that have been expressed here earlier by both those Senators and others, and I do hope that you can get to your review and place it as a top priority.

Second, are hazardous wastes.

Hazardous wastes dump sites are a major concern and legitimately so, but it seems to me equal attention has to be paid to the 50 million tons of hazardous wastes that are currently being generated that have to be disposed of.

As we get into this, we run into major problems which are that there is a great resistance in communities, in towns, cities, in States to the location of hazardous waste disposal sites within their borders.

It is the old story which you are so familiar with: Everybody wants a site, but in somebody else's backyard.

It seems to me that it is permissible and legitimate for this committee to levy a requirement that, in return for Superfund support going to a State, that the State, in turn, must locate within its boundaries or have access through a regional set-up a certified, approved hazardous waste disposal site.

Otherwise, I think we are getting nowhere for the future.

Could you give me your thoughts on that?

Mr. RUCKELSHAUS. I have not reviewed that in any detail, Senator. It seems to me to make sense on its face, but one of the problems that I have been told that exists in the current administration of the Superfund is a requirement that the States raise 10 percent of the moneys at the early stages of the investigation of the problem and the development of the feasibility study. This has been a major roadblock in moving aggressively and quickly on those dumps. Under the statute as it exists, you don't really have to have State funds until the construction phase of the clean up of the abandoned dumps.

I guess the only reservation I would have is that if we put such an imposition on a State, which certainly seems to me to make sense and to be a reasonable requirement to make, if the State refused to do it, for whatever reason—and these get to be very emotional issues in these States—and they still have these abandoned dumps, then what do we do? How do we get the dumps cleaned up, or do we withhold the Superfund moneys if the State simply refused to act because their legislature won't move? In the meantime, we have a deadlock between the Federal and State Government, and the people who live around these terrible dumps are not being helped.

Senator CHAFEE. I can imagine those problems, and also, there are undoubtedly other problems, for example, soil problems within certain States that perhaps that State does not have the conditions which would lend itself to being an approved disposal site.

But I am greatly disturbed by the fact that these boundaries, these barriers are being erected in various States.

State legislatures, for example, are passing legislation that no site can be located within a community unless the community itself gives its approval, which no upstanding leader in the community would ever do.

"Put it some place else." And so while we are spending very large sums of money cleaning up these sites, we are not preparing ourselves for the 50 million tons a year that is spewing out that locations must be provided for in the future.

We will be pursuing this more in the future, and I am reluctant to tell you to put it on a high priority, but put it there, anyway.

There was a group that appeared here Tuesday that warned us about you with the terms that "all that glistens is not gold," and "in the political image making of today, one has to scratch below the surface to find the truth," and this group, Environmental Action, proceeded to list a series of transgressions that had occurred by Weyerhaeuser during the period that you had been vice president and in the past year, leader of its environmental activities.

Although you had a "good guy" image, "we have got to be careful."

Now, some of these charges were disproved during the testimony, but I think it behooves us and it is part of our responsibility to receive from you rebuttal in some of these issues.

I will not go through the entire list, but one point is made that despite you having the image of Mr. Clean, you were directly responsible for the activities of a company which made it one of the filthiest polluters in the Nation, joining the list of environmental actions "Filthy Five" companies in 1981.

What is your answer to that?

Mr. RUCKELSHAUS. Senator, let me give you a general answer and then a specific one.

I watched much of the exchange between the environmental groups here Tuesday and this committee. Those were the groups that, when I was at EPA before, I attempted to meet with them from time to time and discuss the Agency's problems.

I did that for a variety of reasons, not the least of which was I felt these were very dedicated, intelligent people who often brought up questions about the Agency that I wasn't aware of.

I found them very straightforward, hardworking and almost never factually inaccurate in terms of what they were telling me.

That does not mean I always agreed with them on that, I always, on the basis of the facts they gave to me, arrived at the same conclusion they did as to what I ought to do. But I felt it was necessary to meet with them. I met with them again, many of the people in the same group, here a couple of weeks ago to tell them that that was precisely the way I was going to proceed if I was confirmed.

Since that time, they have undoubtedly had some meetings, and it was decided that I needed a little beating up before I was confirmed. Many of the comments that were made here Tuesday related not only to my association with Weyerhaeuser or what I had done since leaving the Government, but went back and threw out a combination of fact, fiction, and mist to raise some issues about what I had done when I was Administrator of the Environmental Protection Agency.

Now, my record is fair game before this committee whether I am with Weyerhaeuser or anywhere else. I certainly would not indicate to the members of this committee that anybody should be immune from attack for what they have done in the past.

I haven't created any good guy myth in the press any more than anybody else has.

But my question, Senator, in watching that performance here last Tuesday is, if my record was so bad when I was at EPA, why was I asked by many of these groups to join their boards when I left the Government in 1973?

Why was I asked by the Environmental Defense Fund to join the board?

Why was I asked by the Natural Resources Defense Council to join the board?

Why was I asked by Mr. Ayres, who testified before this committee, in my law office in 1974 to become the chairman of the Clean Air Coalition.

I turned them all down. I told them I was not interested in doing that.

I was the chairman for the Council on Public Interest Law, which sought, for purposes of insuring access to the decisionmakers for these groups, to determine whether there couldn't be some more permanent basis of funding for them.

It is a little bit, I am afraid, even given the emotionalism of today, a theater of the absurd to be making some of the charges that this committee heard.

They say I ought to be watched, and I agree. I think I ought to be watched by them and by everybody else. I will continue to meet with them, but I am not as sure that the facts I am going to get from them are as accurate as they were before.

Maybe I shouldn't have been as convinced of that before, because there are simply factual misstatements in these charges that were made last Tuesday.

Senator CHAFEE. Certainly, in that discussion last Tuesday, if you were watching it, you noted that this committee raised some of the inaccurate characterizations that took place that were included within this document.

It is my belief that you should have an opportunity to respond to those charges.

Mr. RUCKELSHAUS. I have asked the vice president for environment and regulatory affairs at the company to respond in writing to this committee to those charges, a factual response, no rhetoric, just the facts. [See p. 365.] That response has been made, now, at least three times publicly since the environmental action groups accolade was placed on the company, and that isn't to say, Senator, that Weyerhaeuser Co. is perfect on the environment.

The company has spent, over the last 11 years, an average of $70 million a year, three-quarters of a billion dollars on pollution abatement.

The company has had problems in Wisconsin, which were alluded to in the statement. We have had some problems with the Wildlife Federation in Arkansas in the management of our forests.

I think those problems are largely worked out. I think it is significant that the Wildlife Federation endorsed my candidacy before this body.

The problems in the State of Washington accounted for 94 percent of the fines they cite in the release.

Those problems are associated with technology in some of Weyerhaeuser's big complexes. It doesn't work very well. We have tried some new technology, particularly in the Longview complex which is the biggest forest products complex in the world, which hasn't worked very well.

Under the State laws, any exceedence of their standards calls for an automatic fine. Those fines have been paid. We have been working closely with the State to try to alleviate those problems, and I think we have come a long way toward doing that.

The Toutle River charge was a result of the explosion of Mt. St. Helens, and the company had been active in removing much of the timber from that area, and there was a flap that arose over the removal of some timber along the Toutle River.

I have been up in that area in a helicopter many times and seen it. The area surrounding Mt. St. Helens is a moonscape, and it is an absolute devastation of what was once a remarkable forest, of some 200,000 acres that the company owned.

In the removal of timber from the river, it was simply removing timber that was going to die. The flap died down about as quickly as it arose. What I would prefer to do, other than mentioning those specifics, Senator, is to have a factual description given to this committee so any member who is concerned about it can hear the company's side.

I am not suggesting that this or any other major company in this country is free of some blame on pollution problems. None of these companies are perfect, including Weyerhaeuser.

But I think the company's record is really exemplary, and to list that company as one of the five filthiest in the country, it really just boggles the mind.

Thank you.

Senator STAFFORD. When the committee convened this morning, Senator Durenberger was here, and so, in the customary practice of the committee, the Chair would recognize him next.

Senator DURENBERGER. I thank the chairman.

Bill, yesterday, John Chafee asked you about State grant programs and whether or not you endorsed the position of the former Administrator that State grants should be phased out entirely. As I understand, you gave an answer that essentially was calling for a consensus on the question of State grants.

I am assuming you are talking about a consensus from the administration, the Congress, and the States. It appears to me, both with this hat on and the hat I wear in a different subcommittee, that there is already somewhat of a consensus between the Congress and the States, our view being that about half the cost of the responsibility delegated to the States should be paid for by the Federal Government. So it would appear to me that if the administration would change its mind, we might have the consensus that we need.

But my question of you is more specific, and that is, what role do you intend to play in reaching that consensus? Somewhere in EPA, and you may not have discovered it yet, there is a paper floating around which is a policy paper on State grants, and it advocates that they be eliminated.

So I am wondering if, after you are confirmed, you would find that paper and send it to this committee and then, if you would be willing to consider ordering up a second paper, and that would be a real study of the responsibilities that have been delegated to the States and also in that study, a study of how much it costs to administer those responsibilities, what revenue sources, including user fees, are available to finance those responsibilities or might be available to finance those responsibilities, and then finally, how many Federal dollars do you think should be put into that whole equation?

If we had that kind of a document coming from you, I think we might be able to move toward a consensus. How does that particular notion strike you as a proposal?

Mr. **Ruckelshaus.** I think it's a good idea, Senator.

I guess in attempting to arrive at a consensus of that kind, it's necessary to try to involve either the staff or members of this committee in that review. To involve the States, I have already had a letter from Governor Rockefeller of West Virginia who has indicated a desire to continue to look at this question, and I think unless we are able to arrive at some kind of a conclusion as to what the roles of the various levels of government should be and then who pays for the discharge of that responsibility, we are going to continue to find ourselves at loggerheads without really making any progress.

We can state our point of view by continuing to propose budgetary numbers that suggest the State funds should be phased out, and if the Congress continues to put the money back in the budget and it is signed by the President, we have made a point but no progress.

What I would prefer to do is to try to make some progress. My own view is, as a matter of philosophy, that if the State wants additional responsibility and is capable of carrying it out, the State ought to be willing to pay for a large portion of the responsibility. I don't know how much that would be, but I do know that if we don't get that kind of consensus here in this committee and in the Congress and among the States as to what that proportion should be—mine may be higher than yours in terms of the State's obligation—we are not going to get anywhere, we haven't arrived anywhere.

I think that the role definition between the levels of government is terribly important. I also think that it is a terribly important issue what the role definition is between the legislative and administrative branches of the government, because I think that a lot of the problem we are having in this whole area is that we have got those roles mixed up.

Senator **Durenberger.** I think that we are much closer to a consensus than we are on the financing. That came out in a subcommittee hearing that we had here. Obviously, if the States can play against us the same kind of a fiscal position that they play on social services and a variety of other things, it looks like, to the extent that we aren't putting more money into the States' program, we are against the State role.

So it seemed to me, that is the reason I suggested to you that your leadership in developing an examination of our combined role in the financing would be very helpful. So I would like to see you agree that that is not only a great idea but something you would be willing to commit to produce. There is a nod; is that yes?

Mr. **Ruckelshaus.** Like Senator Chafee said, I am getting so many priorities here, I am going to be in trouble, but I certainly believe that that should be done and so stated in my opening statement.

Senator **Durenberger.** My second question deals with an issue that was raised by Mr. Hair of the National Wildlife Federation and also follows along another question that you were asked dealing with acid rain.

On page 13 of his statement, he says,

> On February 8, 1972, following inputs from EPA and other agencies, the President submitted the Pure Air Tax Act of 1972 to the Congress. The proposal called for imposition of a tax directed on the sulphur emissions of large sources with smaller emitters having the tax based on the actual content of their pollution. The proposal was intended to develop and install control technology and to use clean laws as quickly as possible to minimize their tax liability.

In addition to that, Jack Danforth has a proposal that is similar to that introduced in the last Congress. I think Senator Glenn made a speech on the subject, and I am wondering, first, if you had a role in preparing the Pure Air Tax Act back in 1972, and if you have given this concept of putting a tax on sulfur dioxide emissions from all sources, collecting the tax revenues into a fund, and spending the dollars from the fund where we can get the most reductions from the dollars spent from the fund.

Mr. RUCKELSHAUS. Senator, I did have a role in the development of that 1972 sulfur oxide tax proposal. It originated in the Council on Environmental Quality under Russ Train's leadership, but I was involved in the deliberations and the final proposal to the Congress.

Where we ran into trouble was not in the theory itself but in the application of it. There was resistance—and there always is—at the Treasury Department in proposing a tax for purposes other than raising revenue. They resisted here. The real problem was in layering that tax on top of a standard-setting enforcement process, which is basically an approach that this society has taken to try to alleviate pollution. If you eliminated the standard-setting enforcement process to try to reduce the emissions of sulfur oxides through an incentive of a use tax or whatever the tax might be to make it more attractive to try to reduce the emissions of sulfur oxides through an incentive approach. It might work.

It may be that you can do that, but trying to layer it on top of a standard-setting process as elaborate as ours could prove to be impossible to do. So we never came forward with implementing legislation to Congress. What we did was essentially introduced a shell of a bill, the concept itself.

I do think that in this whole area of acid rain, assuming we could come up with a proposal that makes sense in terms of its effectiveness, the question of who pays is a very central one. I guess my concern is that if you put the SO_2 removal burden on the States where most of the emissions comes from, no matter how good an argument you might be able to make, it is their obligation to produce the reduction. If you put the burden on the ratepayers of those very large utility boilers which would have to be controlled, we may be in for a 10-year fight in the courts in those States before they would do anything.

I don't know whether that is true, but that, just in reading about it, it seems to me that is a potential if we are not careful.

The question of who pays, therefore, is very central to any solution that would work.

Senator DURENBERGER. I think you have extremely well stated the problem, as well as the option, and it is typical not only in this area, but a lot of other areas. The two things we do well here in trying to implement standards or change of policy is either regulate or tax suspend, and the tax suspend, as you have articulated, works in a variety of ways, and it is difficult to lay one on top of the other and expect to run both of them at the same time.

But having been through this sort of thing in health policy and having seen the effects of regulation when you try to treat everybody exactly the same, every region of the country the same, every hospital and every community quite the same, you can see the failures in that kind of a system up against the way people really buy their health care or what they expect to get. And the same thing, I'm sure, applies to the economic system.

So I would be hopeful that having identified the problem, we haven't give up on looking at it as a potential solution.

Let me ask you another followup question on acid rain. I think yesterday you stated that there was no health threshold for sulfur dioxide; that is, no level below which exposure to sulfur dioxide has no health effect.

Mr. **Ruckelshaus.** I said that there were some scientists whom I have heard say that. That does not mean there is a scientific consensus. That is true.

Senator **Durenberger.** Well, does any of that suggest that we ought to be headed toward best available control technology for all of our sulfur dioxide sources?

Mr. **Ruckelshaus.** I don't know the answer to that, Senator, because when we are talking about those no threshold kind of pollutants. I was just using that more as an example. Some carcinogens are substances where a lot of scientists say you simply can't establish a threshold below which you can say there is no health effect. In some instances, in the control of carcinogens, if we want to continue to produce a product, we may well have to go to a straight technology standard; you get the levels down just as far as it is possible to go.

In the case of sulfur oxides, aimed at the problem of acid rain, it is a different question than whether you have no threshold health effect.

What I am concerned about in the setting of the health effect standards, when they are combined with a stringent deadline, is that I am being asked to do something that is going to have, by the setting of the standard itself, an enormous economic effect. I am not obviously speaking very clearly about this, because people don't understand what I am saying. I am not saying that we should take the effort to understand the health effects of the pollutants we are trying to regulate and inject cost/benefit into that process. You can't do that.

What I am saying is that's what people are going to say I have done if I take the particulate matter standard and set it at the upper level where the scientific advisory committee has said, "Within that range, that's OK." I don't know what that means. Maybe I should be given the authority to set a range as Administrator of the Environmental Protection Agency rather than set an arbitrary number below which there is no health effect with a margin of safety built in.

What will happen is this. If I set it too low, it will be said that I am then unreasonable and crazy. If I have set it too high, it will be said that I have caved in to the big interests in the Middle West. I mean, that is exactly my option. I want the committee to know this is what I see as my option under the standard-setting process that is currently in the statute.

Senator **Durenberger.** Thank you.

Senator **Stafford.** A rollcall is in progress, and part of the time has expired.

The Chair's intent, the members being agreeable, is to continue as long as we need to this afternoon if you are game, Mr. Ruckelshaus, to complete the hearing. But we are going to have to recess now for at least 10 minutes to give everybody a little break while the members go and vote. Then we will come back and continue.

The Chair will now state that it's the Chair's intent, after consulting with Senator Randolph, that the committee schedule a full committee meeting tomorrow morning at 10 o'clock in our regular committee meeting room for the purpose of voting on the confirmation of William Ruckelshaus.

The committee stands in recess for 10 minutes.

[A brief recess was taken.]

Senator BENTSEN [presiding]. I am trying to save the witness' time and the committee's time.

We will convene the committee, and I will Chair, pending the return of the chairman, which shall be momentarily.

Mr. Ruckelshaus, as you know, over the last couple of years, we have been debating, here in the Senate, the modifications of the Clean Air Act, and we have arrived at a whole series of compromises that haven't really been satisfactory to the scientists or to industry or to the administration.

I might also say the administration has not, in any major way, participated during that period of time; they did not submit a bill, and I doubt that it would help much if they did at this late date.

One of the problems that concerned us, of course, was the nonattainment deadlines. Most of the people associated with the Clean Air Act, whether you were talking about the National Commission on Air Quality or members of the committee, felt that some modifications needed to take place.

But during the period of time that these deliberations were taking place, the nonattainment deadlines passed.

Senator Stafford, as chairman of this committee, and Senator Randolph, wrote to the EPA Administrator, trying to find a process to adjust for these deadlines in some of the areas that exceeded the nonattainment standards to try to find a way to do it that would not lead to any major economic dislocation, particularly in a time of serious recession.

My own view, though, is those agreements were reached with the EPA as a key and participating partner.

As a consequence, I believe that the first step in any process relating to the deadlines should be an opportunity for the State to submit a plan revision. I believe the law allows that option, and the agency should use that kind of authority.

What did the EPA do, though? They threatened almost every major urban area in the country with cutoffs on materials, as far as highway grants and construction grants. It is my interpretation that was a political move to try to panic the Congress into weakening the Clean Air Act.

There have been several studies, in addition to the Stafford-Randolph letter, by such prestigious organizations as the General Accounting Office and the Congressional Research Service, concluding that the EPA exceeded its authority in one respect and did not exercise its full discretion in the other regard.

So my question to you, Mr. Ruckelshaus, is whether you are prepared to reconsider the current EPA course of action for a review toward following a path that tries to minimize some of the national fear, in this regard, to the threat of sanctions by using some of the alternatives that have been suggested by some of these other analysts of these issues.

Mr. RUCKELSHAUS. Senator, as I have testified many times before this committee over the years, I am a great believer in this committee, through the operation of law, providing flexibility to the Administrator of EPA to deal with the various problems that exist around the country associated with achieving our air pollution goals. And to the extent that the existing law does give me such flexibility to act wisely, I would intended to use it.

I am aware that, in this whole sanction controversy, there is some disagreement among lawyers in terms of statutory interpretation. In effect, what does the statute leave to the discretion of the Administrator, and what is mandatory.

I have not completely examined the statute to determine discretion I have in terms of all of these various sanctions that will be available. As I understand it, there are essentially three sanctions; construction grants, highway grants and the State grant funds, all of which are triggered by various parts of the State implementation plans or the implementation of these plans.

My approach will be to try to read the statute as giving me as much flexibility as possible. As I have stated here many times, I don't want to go outside the confines of where the Congress has placed me.

If it turns out that my interpretation is that I don't have the flexibility, then I will try to work with the committee. If we are creating the distortions you suggest, I will try to get the flexibility to avoid that. I don't think, frankly, that this disruption is the way to achieve our clean air objectives unless it comes to a last resort where we simply have to do something fairly drastic.

But as of this point, my intention is to review this very carefully—I know it is a big issue—and to attempt to view my authority as broadly as possible.

Senator BENTSEN. I think that is a reasonable response, and I appreciate it.

There is a second issue with respect to sanctions involving those areas that have submitted State implementation plans to try to get an extension of the deadlines to 1987, and, in particular, I am thinking about a plan revision for Houston, Tex.

It is my understanding that EPA is proposing to reject the plan based on the inspection and maintenance portion of the program, and, again, is threatening sanctions.

Frankly, I believe that the one that they have submitted meets the congressional mandates. I made those views known to the former Administrator in a letter in January 1983. In response to my letter, I was told the EPA did not find the plan conformed to policy on inspection and maintenance.

My reaction was, "What we want to know is, does it conform to the law?"

My second concern is the sanction threat. My State attempted to work very closely with the EPA in developing this inspection and maintenance proposal. It was led to believe that that concept was going to be acceptable.

Now, the EPA is proposing disapproval. At a minimum, I believe, the Agency ought to offer the State the opportunity to revise its proposal prior to the sanctions.

If they think that is not acceptable, then I believe before they slap on the sanctions, they ought to say, "We don't believe it is acceptable in this regard—and see if we cannot, then, come back with something that takes care of that specific; give them that kind of an option.

I want to thank you, very much.

We have gone through some very good discussions since you have been here. We have dramatically changed the makeup of this meeting.

Thank you, very much.

Mr. RUCKELSHAUS. Senator, what you suggest certainly sems to me to be reasonable. Again, I don't know the particulars of this plan as if affects Houston and all the controversy surrounding that plan and its extension.

I will certainly take a look at it and see what is possible to do in terms of either revising the plan or putting it on a course of action that not only is consistent with the law but consistent with achieving our air quality goals in that community.

Senator BENTSEN. What we are trying to do is find a way to comply, and if it seems that we don't in some regard, then tell us.

Let us see if we can find a way to accomplish the objectives. We have a situation where we have run into PCB's in the Gulf of Mexico. That is a matter of substantial concern to the people of South Texas.

I had asked that we have hearings with at least 30 days' notice on the study results and any proposed permits.

I had been assured that those hearings were to be held before the proposed permits were made.

Could I have that kind of an assurance from you that these commitments will be adhered to if you become the Administrator?

Mr. RUCKELSHAUS. The question is on whether we will have hearings?

Senator BENTSEN. Have public hearings in south Texas before the permits for continued future incineration of PCB's in the Gulf of Mexico are continued.

Mr. RUCKELSHAUS. I certainly know of no reason why a public hearing should not be held, Senator, and absent any comment to the contrary, you certainly have a commitment that such a hearing would be held.

I don't see any reason why there shouldn't be.

Senator BENTSEN. I don't, either; I just want to be sure it is committed.

We have been having some serious lead controversies in Dallas. Congressman Martin Frost has taken a leading role in trying to work out some of these concerns.

I share his concerns with him. There has been a lot of controversy over lead exposure in the communities in Dallas.

Your Agency and the Center for Disease Control were involved in a lengthy study of the causes and the magnitude of the lead exposure problems.

There were positions taken by your predecessors that resulted in potential volunteer action on the part of the companies where they would have gone in and cleaned up some things, your predecessors overruled a volunteer agreement being arrived at, and that was not done.

At issue is whether the EPA acted in a manner that was responsive to the protection of the public health there. I would request your commitment to review the actions at the EPA to assess whether it reacted properly and report to me on the results of that assessment, including any changes that you believe should be instituted to improve future expenses to the problems of this nature and what action should now be taken by the EPA.

We had a deal almost worked out whereby these companies would go back and would remove a lot of the dirt that was lead contaminated and then some of your predecessors took action that negated that kind of voluntary action.

Frankly, it was a very questionable action on their part from my standpoint.

I would like your review of that to see what we can do to push a settlement of the problem.

Mr. Ruckelshaus. I will commit to do that, Senator.

Senator Bentsen. One way to get 15 minutes for your turn is to come back early.

Senator Stafford. You are down to 2.

Senator Mitchell. You mean you didn't start the timer right?

Senator Bentsen. I didn't start until I saw him coming in the door.

Mr. Ruckelshaus, I have a number of questions, but I will submit them to you in writing and ask for your response in writing.

Mr. Ruckelshaus. Yes, sir.

Senator Bentsen. Thank you, very much.

Thank you, Mr. Chairman.

Senator Stafford. Thank you.

According to the chairman's score card, Senator Hart would be next if he were here, but in his absence, we will start the third round of questions and then break in for him when he arrives, if that is agreeable to my colleagues.

So let me start.

Mr. Ruckelshaus, I think we might be able to agree that we likely may disagree in our view of some aspects of the Clean Air Act. Your public statements and articles, together with views stated in letters that you have made available to this committee, seem to indicate your belief that the fundamental underpinning of the act needs revision.

My own statements, I guess, make it clear that I have reached the opposite conclusion, and I think the action of this committee last fall, when it voted out the bill to the Senate, 15 to 1, share that view.

We believe the act to be fundamentally sound. While I am not at all disturbed by honest disagreements between thoughtful people, I just want to set the record straight about the degree of scrutiny that this committee has given over the past 2 years to the provisions of the Clean Air Act.

We held 27 days of hearings that covered every major and most minor provisions of the act. We devoted 33 sessions to marking up the legislation, including several days each on the admittedly complex subjects of prevention of significant deterioration, motor vehicle controls, nonattainment and permitting requirements and interstate transport of air pollution.

Modifications made by the committee basically affirmed the soundness of the act, while, in our judgment, reducing complexities providing greater flexibility to States in extended deadlines.

Committee members explicitly discussed the health basis for the national ambient air quality standards, and understanding their decision, consciously concluded that the policy embodied in those provisions remain sound and should be left unchanged.

You and this committee may disagree in some of the conclusions we reach about the act. I respectfully submit, however, that that is not because the committee is largely ignorant of the impact of the law ncr because of our "failure to master the details of the act" as you have characterized the reason for congressional resistance to change that act.

I make those statements, but I do assure you that we stand ready to cooperate with you as the new Administrator in considering any further changes that we might mutually agree could be appropriate for the Clean Air Act.

Having said that, now, let me turn to another matter, and that is the international activities of EPA.

Before this hearing, you and your staff were supplied with documents which this committee obtained in connection with its preparation for your nomination hearing. These are all official documents of the Environmental Protection Agency relating to the operation of the Office of International Affairs.

As you were not the Administrator at the time the events covered by these documents took place, I understand that you cannot answer for them or for the policies which they represent. Nevertheless, I would like a commitment from you based on these documents.

First, these documents indicate that a representative of the Dow Chemical Co. participated in the development and drafting of official positions of the U.S. Government relating to the relation of toxic chemicals.

There is every appearance, at least, that this representative actually sat in the Office of the Environmental Protection Agency and drafted official policy documents.

There is also an indication that this official met with and, in effect, instructed a U.S. Ambassador on what the policy of this country would be regarding the regulation of toxic chemicals.

Second, you will note that several of these documents were, until very recently, classified as confidential. Such a classification indicates their disclosure would jeopardize the national security of the United States.

Documents were declassified only after copies were requested by this committee.

I would like to obtain from you the following commitments: That the conduct of the Office of International Activities during the last 2 years will be thoroughly and completely investigated; further, that at no time will there be a recurrence of circumstances where the employee of a private company participates so directly in the development and drafting of U.S. positions that amounts almost to having dictated them.

Mr. RUCKELSHAUS. Senator, you can have my commitment on that. I will, as I have said before, consult with all kinds of people on the development of policies but will do so as openly as I know how, and there won't be anybody outside the employees of this Agency actually drafting final language as a result of all of that participation.

Senator STAFFORD. Thank you, sir.

Second, I would like a commitment for this committee that all documents classified on the basis of national security in the Agency will be reviewed and, where appropriate, declassified.

Mr. RUCKELSHAUS. I will see that that is done, Mr. Chairman. I take it that you don't want me to do all that.

Senator STAFFORD. No; I wouldn't expect you to have time to do all of that personally.

The committee has also heard from a number of individuals from this country and abroad who have called our collective attention to EPA's role in the international environmental arena.

Let me read a paragraph from one letter we received.

It was written by Mr. Konrad Von Moltke, Director of the Institute for European Environmental Policy. Quoting:

> For many years, the United States was a world leader on environmental issues, both in its internal policies and in the international forum.
>
> This is no longer the case. Sometimes the impression exists that it requires the combined efforts of all other countries to get the United States to accept agreements which appear reasonable to a very wide range of opinion, indeed.
>
> It was a sorry spectacle to see the United States part of a tiny minority on some of the most important environmental issues of our time.

I believe Mr. Von Moltke raises an important concern as one who has a distinguished record of involvement in international environmental questions.

Can you give us your idea of the proper U.S. role in such issues and the role you see for EPA in formulating U.S. positions?

Mr. RUCKELSHAUS. I have heard those same objections, Senator, from many of my friends in the environmental movement and in other areas.

From what they have told me, from what I have seen, it seems there is some justification in their expression of concern. I think this Agency, this country should assume a position of leadership in this area, as we have in the past.

I think we have, as a Nation, a marvelous story to tell about what we have done on environmental problems. We ought to be telling the developed nations of the world that. We ought to be telling the developing nations of the world that the environment is not an issue to keep them less developed, which I think some of them still believe. In fact, it often is true that an ounce of prevention in this area is worth a pound of cure.

I don't see anything inconsistent with development and sound environmental policies. We should be bringing that message to the rest of the world, to the developing world, as clearly as we can.

At the same time, we should be working with the developed world to insure that the environmental policies of this country are as much in harmony with the environmental policies of other countries as possible so that we don't find ourselves competitively disadvantaged with other nations, either because we are behind or ahead of where they ought to be.

That isn't always going to be true. Harmonization is what is going to be needed. We cannot dictate to them nor they to us what we ought to do to the environment. But we need more cooperation, more understanding, less national barriers to discussions about environmental problems rather than more.

I think this country has, in the past, taken a leadership role and should do so again. EPA will attempt to play its part in the development of that leadership role as we have in the past.

Senator STAFFORD. I consider that a very encouraging reply.

I am pleased with it.

Senator Randolph.

Senator RANDOLPH. Mr. Ruckelshaus, during the hearing on your nomination several Senators have directed their comments to the issue of acid rain. This certainly is a matter of concern to our able chairman and others on the committee because they represent the States that are affected by acid rain. They believe that to be true and so stated.

They have discussed with us many times the effects of undue acid rain on the forests and on the waters of New England. We also have forests and water in West Virginia. In fact, we are the mother of rivers and that doesn't need to be documented. There are mixed hardwood forests, the third in productivity in the Nation. But I want you to draw attention in your comments if you would to the possible economic and perhaps even social consequences of the control programs as they might vary.

I understand that you share the concerns. The concerns are of different types. I know that. Sometimes there are different approaches but always these concerns must be realistically looked at.

It is my understanding that you have been seeking, I believe this is correct, an analysis of approaches which would involve the valid reductions in sulfur emissions but would avoid the disruption of the proceeds of the mines and the movement of the coal to the markets, markets not only within this country but abroad. If you have been doing this in one way or another I commend you for your efforts as I commend all regardless of the point from which they start because all of these matters concern the health and well being of people, also the employment of people and also the production of products that move to the consuming public.

Would you confirm or discuss what you have been thinking, what you are planning, what you feel that you would want to state at this time in connection with the matter which has been raised during the hearings?

Mr. RUCKELSHAUS. Senator, when I was at EPA before and other Government agencies it always seemed to me that the Administrator, or the person charged with the responsibility in those agencies, had at any one time three or four problems that were of sufficient moment that a considerable amount of their attention should be devoted to them. I was convinced of that at EPA.

There is no way that I can understand all the substance behind all of these issues that face EPA. They are just too complicated and too many and you have to be willing to delegate a lot of that responsibility and be confident that you have people capable of following your guidance and Congress guidance in coming to a conclusion. I mentioned the issue of acid rain in my opening statement because I think that is one of those kind of paramount three or four issues, substantive kinds of problems that I really ought to focus my attention on. I have in talking to several members of this committee and witnessed their very deep concern about the issue of acid rain. I have heard by letter from several Congressmen or Senators who are not on this committee but who are from the States that would be affected by the control strategy.

Hearing their very strong concerns about the issue, it is clear to me at this point that there is a wide division between the view of the members of the U.S. Senate on this issue and what should be done about it. As somebody brand new to it, what I have been trying to do over the last few weeks is better understand the issue and read as much as I can about what has been said. I have read several books on it, talked to various people who are knowledgeable about the issue, to find out what their point of view is in an effort to see whether there is any area in which we might come up with a strategy that made sense for the country, made sense for the administration, and for our international relations so that we could move forward commonly toward a strategy to deal effectively with this problem.

I don't know whether there is such an area for common ground or not. I don't know whether it is possible to come up with such a strategy. But I think it is worth a good percentage of my time to try to find it. That is what I have been doing over the last few weeks in trying to explore various opportunities that might exist and make some progress on that issue.

Senator **Randolph.** Mr. Ruckelshaus, from my standpoint I concur in what you have just said. I do not try to have an influence in one way or another upon the findings that you and EPA under your leadership may make. I am comforted by the fact that you do not dismiss it summarily as a problem that is not one of concern to New England, to West Virginia, and to all States and even to Canada itself as we know. I want you to realize that insofar as this Senator is concerned that that is the attitude I would expect of you, the attitude that certainly I would commend.

When this committee began work on the reauthorization of the Clean Air Act in 1981, the American automotive industry was crying that they needed help, they needed help from the Congress, they needed help because they were in difficulties, they were in financial disarray.

They came to Capitol Hill to discuss with members of the Senate and our committee relaxation of the automobile emission standards.

I want to say that I supported the change in the CO standard. And it was the hope that the cost savings would help to revive that ailing industry. It is an important industry. Not 2 years later sales are increasing, the industry seems to be recovering. In addition 2 model years have come and gone with care being built in compliance with the statutory standards. We no longer hear those deeply rooted pleas from the automotive industry.

Is it reasonable to believe that the relaxed auto emission standards are no longer a part of the up front agenda in connection with the revision of the Clean Air Act? What would be your feeling?

Mr. **Ruckelshaus.** Senator, I honestly don't know whether that is true or not. I had followed from afar the debate in the House over whether the CO standard should be raised. I honestly don't know where that is on the automobile industry agenda, whether that is still an issue that is of importance to them or not.

Senator **Randolph.** Thank you very much.

Mr. **Ruckelshaus.** I could find out for the Senator.

Senator Randolph. You are going to proceed later to go into these matters. I want the record to indicate that in this instance you have made an answer that is very understandable to me for the moment.

This final question, Mr. Chairman. When you appeared, Mr. Ruckelshaus, before the committee for your confirmation hearing I remember on December 1, 1970, these were your words. "If we are to make progress in pollution abatement we must have a firm enforcement policy at the Federal level." The Agency's enforcement staff has been reorganized at least three times in the past few years. This fact coupled with an attitude which did not value enforcement efforts has caused a significant decline in enforcement and a serious lack, I think, of credibility at in the agency. I know you will have plans. I don't ask you to define them explicitly. But I think we need to assure the people of the country that we take these subjects very seriously, seriously as a people as a whole, as environmentalists, as citizens, as industrialists, that the American citizenry is the top line in the enforcement.

I believe that is what is upon the books should be enforced.

What do you believe?

Mr. Ruckelshaus. I think you are absolutely right, Senator, and to the extent that there is any lack of will to enforce at EPA that is over. I don't know that will was lacking in the past. I am just saying it is over. To the extent we have organizational problems that are resulting in roadblocks, and it appears that we do from what I can understand, I am going to try to straighten those out. I don't want to go through another massive reorganization. That takes time to get done and to the extent I can make it simple, make a decisionmaking process as simple as possible and we can get these decisions made in a timely way and use the tools of enforcement as they are meant to be used to hasten compliance, we will do that.

That is what we will do.

Senator Randolph. But you believe in enforcement based upon the statutes?

Mr. Ruckelshaus. Absolutely.

Senator Randolph. Mr. Chairman, do I have any time?

Senator Stafford. The time has run out. I think Senator Mitchell is waiting in the wings.

Senator Randolph. I am sorry. He is always very patient with me. I had one question and I will just file it.

Senator Mitchell. At least give me the opportunity to volunteer to defer to you, Mr. Chairman.

Senator Randolph. The hearing judge can be so self-effacing.

Senator Stafford. One who no longer has a life term either.

Senator Randolph. Do not judges retire fully paid?

Senator Stafford. Yes.

Senator Randolph. You go ahead.

Senator Mitchell. I will be glad to defer to you. Why don't you go ahead.

Senator Randolph. It will take just a moment to place it in the record and thanks, Senator Mitchell, and to our able chairman. I have a special interest in solid waste disposal. One fundamental purpose of that original act was the need to initiate sound planning and management of the growing problem of refuse.

We need, as I see it, to encourage the various governmental units, certainly State and local governments to devise and implement plans to close all open dumps. We said in legislation we would close them in 5 years. Anybody here want to say it has been done? That was the feeling, close all open dumps and use alternate methods of disposal.

This is reflected in subtitle D of the solid waste disposal legislation. The current administration, I think the record that I now state is one that is well known, has resisted funding these activities, Mr. Ruckelshaus, and there have been no new funds allocated to this effort. I think that should have been done. I hope that you will look favorably on providing the assistance to the States and to the localities and the programs to that end.

Open dumping is an eyesore, all you need is to go along the highways of America and see what I am talking about. The side streets of our cities are clogged with litter. We do not deal with dumping in the way that we should and that is to outlaw it and we need to deal with nonhazardous wastes under subtitle D.

Do you want to make a comment at all?

Mr. **Ruckelshaus.** Senator, I will certainly look at that. I am not familiar with that. It was not raised with me in any of the briefing material. But I will certainly look at it.

Senator **Randolph.** Thank you very much. Thank you, Mr. Chairman.

Senator **Stafford.** Thank you very much, Senator.

Senator Mitchell.

Senator **Randolph.** Thank you again, Senator.

Senator **Mitchell.** Mr. Ruckelshaus, at the conclusion of the last round of my questioning we were discussing the question of OMB review and you said, quite appropriately, that you did not question the existence of the review process in an effort to develop a coherent governmentwide policy.

My question relates now to the process by which that review is conducted and the importance of making certain that it is public and available to scrutiny by the American people. Do you agree that Federal agency comments on EPA regulations should be part of the normal public comment process?

Mr. **Ruckelshaus.** I don't see any reason why they should not, Senator. I do not know what the current procedure is, whether those comments are made part of the public record or not. As I recall in the past there were some provisions for Federal agencies to comment on notices of proposed rulemaking and that those comments were made public. I don't know what the procedure is today. I do not see why they should not be public.

Senator **Mitchell.** What I am trying to get at is to prevent the circumstance which I will ask you whether or not it occurred during your previous tenure where Federal agency comments were not required to be public or within the time or procedure available for other commentary thereby leading to at least the impression, if not the reality, that improper or nonpublic at least and therefore unavailable to the challenged comments were made that had an influence on agency regulations.

It seems to me you have a commendable record for openness and that is the kind of thing that you would be very much concerned about.

Mr. RUCKELSHAUS. When we started that process, back in 1971, there were some flaws in it. I think maybe one of the things you are suggesting about Federal comments and their being available was one of the flaws. I don't frankly remember whether that was ever straightened out when I was there or not. I don't know what the procedure is now.

I honestly don't. I don't see why Federal comments, other agency comments, other department comments on EPA regulations should not be made public like any other comments. I don't know why. I can't frankly think what the argument would be why they shouldn't be.

Senator MITCHELL. There is not obviously a valid public argument for that.

Mr. RUCKELSHAUS. Then it is very difficult to make an argument.

Senator MITCHELL. The reason it is done obviously is because it is easier to influence policy when you can do it in a nonpublic manner in some circumstances. That is really what I am driving at. I am glad to hear you say that and I hope you will try to see that that is done in all cases.

I would like to make a comment in response to a question by Senator Chafee on the testimony before this committee on Tuesday. You referred to the representatives who testified as "those groups" seeming thereby to categorize them in a singular fashion. I want to point out to you if you go back and take a look at that testimony there were widely divergent points of view.

A substantial majority of it was very forthright and I don't think you should confuse the testimony of one with that of another in influencing your future relations with environmental organizations.

Mr. RUCKELSHAUS. Senator, it is not going to influence my relations. Some of the statements that were made indicated specifically they incorporated the comments of the others. I am going to be as open with them. Even if they turn out to be as antagonistic as they were 2 days ago, I am going to talk to them and still going to meet with them periodically.

Senator MITCHELL. They weren't all antagonistic.

Mr. RUCKELSHAUS. I know they weren't.

Senator MITCHELL. Some of them made a strong statement in your support?

Mr. RUCKELSHAUS. I mentioned that. I mentioned that and I appreciated that. That took a lot of courage because I can understand the kinds of response Mr. Hair might have gotten from some of his colleagues for doing that.

I commend him for that; not necessarily for his judgment but for his courage.

Senator MITCHELL. I would like now to move to another area that is of deep concern to me and I believe also to millions of Americans and that is the difficult problem of toxic substances and how best to deal with them.

I have a series of questions in that regard.

I want to begin by quoting two statements that you made at various times in the past and ask you to comment on them.

In 1971, you told the House Public Works Committee "if you are talking about toxic substances, wo ought to get them out of the effluence, period."

In 1976, you said in an interview with Science magazine:

> **The really crucial question centers around the degree of risk that is to be deemed socially and environmentally acceptable.**

Did you say those words? Are those views contradictory?

If not, how do you reconcile them? Most importantly, what are your views now on the subject?

Mr. RUCKELSHAUS. I don't doubt for a minutes I said those words, Senator. I do not perceive them as being inconsistent. When we first started talking about toxics back in the early seventies, at least when I did I don't think I was as careful in defining toxics as I might have been. Toxics are defined in statutes in terms of the Superfund statute for instance, in terms of contaminants, pollutants, hazardous wastes, hazardous substances.

I think it is important when we are talking about toxics, to distinguish between those things that are acutely toxic that even a very minute amount of them are acutely toxic to man and all kinds of organisms and other kinds of substances which are toxic at very high levels but which it is possible scientifically to demonstrate are not toxic at lower levels. They still could be called toxics.

When I say that we should understand the risk that we are trying to manage against, as in the Science magazine interview, I believe that is the kind of care we need to take in terms of defining toxics.

What do we mean by toxics? What is the substance that we are trying to control? Consistent with my 1971 statement, are we talking about acute toxics? Are we talking about something that is carcinogenic or at the levels they are being discharged?

There is no question that those have to be gotten out. Those have to be handled.

So in managing risk, we need to take greater care in defining the risk in the process of developing a strategy to deal with it. That is what I feel today. I don't see there is anything inconsistent with those two statements.

Senator MITCHELL. I am encouraged by your comment on materials which may be carcinogenic because that is the next series of questions that I ask, prompted largely by your letter to Vice President Bush and all of the commentary on the cost benefit analysis and trying to make other social and economic judgments in relation to regulations protecting the public health.

I am going to read you a couple of sentences and ask you whether you agree or disagree with them. They relate to the subject matter which we have just described.

In 1980, the Toxic Substances Strategy Committee which was composed of representatives from Federal agencies with responsibility for control of toxic substances, said:

> **Methods do not now exist for determining the safe threshold level of exposure to carcinogens, exposure to any amount of the carcinogen, however small must be regarded as an addition to the total carcinogen risk.**

Do you agree with that statement?

Mr. Ruckelshaus. I know that there is an ongoing scientific debate as to whether you can establish a threshhold for many carcinogens below which you can say there is no health effect.

For purposes of proceeding as a regulator, as someone charged with protection of the public health, I cannot resolve that debate. I have heard it in public forums. And I have heard scientists on both sides argue that question.

I am not qualified to say which one is right. I think we have to assume that we are dealing with substances that you really may not be able to establish a threshold below which you can say there is no health effect.

I think taking that assumption does not necessarily mean that you adopt one strategy over another but I think that is an assumption that I simply have to make.

You cannot prove it or disprove it one way or another, based on the scientific debate that I have heard.

Senator Mitchell. In fact, in 1980, the Occupational Safety and Health Administration of the U.S. Government concluded that the inability to determine a threshold for carcinogen represents to a large extent a consensus of scientific opinion.

I am not certain that there is the kind of debate that you described and that while there obviously are minority views on that, I believe there is a substance, if not, overwhelming consensus, that there is no ability to determine that threshold.

That is the thing that I am most concerned about.

Mr. Ruckelshaus. Senator, let me just say I have heard scientists who I don't really believe are biased on this question one way or another, who honestly believe that it is possible to establish those threshold relationships to carcinogens.

I have listened to them discourse at great length on the subject. I am not prepared just out of hand to discard their beliefs. I think that for purposes of proceeding in the job I now have that whether this scientific debate proceeds or not we have got to assume that there is at least a substantial body of scientific belief that holds it is impossible to establish a threshold for many carcinogens.

Senator Stafford. Would the Senator yield to indicate to the Chair how much longer he might like to consume since with the absence of other Senators and in view of the fact the Chair has only a closing observation, I am only asking for some indication of what time you might want.

Senator Mitchell. I don't want to predict the time, Mr. Chairman. Not too much longer. I will be very happy to defer to the chairman for whatever comments or questions he wants and I will finish.

Senator Stafford. I would suggest, Senator, that you go right ahead and finish the questions you would like to direct. Then I will have a final observation and we will bring the meeting to a close.

Senator Mitchell. I want to make clear I will do it anyway you want to do it.

Senator Stafford. I think the best way is for you to continue.

Senator Mitchell. I do have some questions I want to ask: I will be prepared to wait here until everybody finishes to do so. This is a very serious question and one I think that is important from your standpoint.

I will read one more statement which I think really bears most directly on it. The New York Academy of Science publishes something called the annals, and this statement appeared in 1981, which I think is correct and important. It is—

> When a toxic substance is identified in a test system as a prudent health policy matter, this substance is to be treated as posing a carcinogenic risk to human beings because public policy mandates preventative health care.
>
> Waiting for epidemiologic data is unacceptable since it means waiting to count bodies.

I just urge that upon you, that you act in this area. I now want to ask a question for which what we have discussed as the predicate.

It is my understanding that in here 2 years, your predecessor failed to list any new hazardous pollutants under the toxic air pollutant program, even though the agencies list of chemicals for priority review includes more than a dozen known carcinogens.

Is it time for a congressionally mandated deadline?

Mr. RUCKELSHAUS. As I read section 112, which is the section under the statute that you are referring to, I think it is difficult to implement.

My understanding of the problem that EPA is having in listing substances under section 112 is the difficulty of listing the substance itself and, second, the difficulty of then regulating the substance under the terms of the section itself.

It speaks in terms of a margin of safety which, in the case of a carcinogen, you may not be able to establish.

Let's assume you cannot establish a threshold. If my understanding is correct, and a substance is listed under section 112, that means any regulation would, under a literal interpretation of the law, have to require zero discharge of the substance into the environment.

There are some provisions in the section allowing for exemption from such a literal interpretation but they are cumbersome and uncertain in their meaning.

If we can look at the section and determine exactly what it means and what our options are once a substance is listed, then I think we can proceed under the existing statute.

I can proceed. I don't know that it assists my ability to proceed as Administrator of the Agency, or resolves the threshold problem to have the Congress to do the listing.

If the Congress believes the Agency hasn't moved fast enough and isn't properly interpreting section 112, then maybe listing those substances is its only recourse. I haven't frankly studied the section carefully enough recently to determine whether there is any way in which you can list a substance there and regulate it under the kinds of conditions which you suggest.

If it is possible to do so, then I think the Administrator should go ahead and list substances and proceed.

Senator MITCHELL. I urge you to do so because while you have been given a lot of requests to give priority to things and I have been among them, what we are talking about now involves the life and death of individual human beings and I think that must take the highest priority.

And I hope very much that you will review that, make your own judgment because I believe that if inaction continues, there will be the necessity of congressional action to clarify any ambiquity which may exist or if we conclude there is no ambiquity, to direct action which I, for one, Senator, at least believes must be taken for the protection of the health of the American people.

I want to get into one further area.

Mr. Chairman, I will move as far as I can. That involves the question which has been much discussed, the risk assessment or what you call in your letter the inherently irrational use of health and environmental effects standards.

I understand that you disagree very strongly with that standard. But do you agree that Congress has considered this matter, has discussed and debated this matter, and whether or not you think it is irrational and whether or not you think the members of Congress are ignorant in the process, nonetheless do you not agree that Congress has made a judgment and that while you obviously are free and should be encouraged to make any changes you want, that as for now there has been a considered judgment made by Congress that these are the standards that should obtain?

Mr. **Ruckelshaus**. There is no question about it, Senator.

You have ordered, the Congress has ordered the Administrator since 1970 to establish ambient air quality standards for the criteria pollutants and to establish some margin of safety below which there is no health effect and that shall be the standard for the country.

That is what I will do. That is what I did in the first instance and that is what I will do again. All I want to point out is, there are problems associated with that.

I think if the body of science suggests there is no threshold for carcinogens and that also turns out to be their opinion for sulfur oxides, I don't know how I can set a standard consistent with the statute.

If I had the particulate matter standard and the range that I discussed with Senator Hart yesterday, I think I would be in real trouble. I want to let this committee know that I think I am being put in a very difficult position in attempting to do that. When I talked about fundamental review, this was one of the things I was alluding to, not to weaken those standards, that is a separate question, but the question of how we develop the strategy to deal with the pollutant. If the criteria for the setting of the standards that are laid out in the statute don't conform with scientific reality, when I think I am in trouble.

That is the only question I am raising to the committee.

Senator **Mitchell**. I would also point out to you that this has been reviewed and considered subsequent to 1970. In 1981, in this very room, this very committee debated that very question and overwhelmingly rejected the point of view which you have advocated.

So I just would say that it is not as though it were decided in 1979 and has not been visited since then.

Mr. **Ruckelshaus**. Senator, that wouldn't be the first time this committee overwhelmingly rejected the proposal.

Senator **Mitchell**. You will get the votes on the important thing. Let me say that I have some more questions but I don't want to unnecessarily prolong this.

I will submit them in writing to Mr. Ruckelshaus. I would just conclude, Mr. Ruckelshaus, by congratulating you on a very impressive performance before the committee and to say that I believe you have a unique opportunity to perform a valuable service, not just for yourself, but for this administration, and for the American people.

You come into office under circumstances that not many Cabinet or Cabinet level officials have enjoyed. The President needs you a lot more than you need him for this job. And you have a degree of independence and the opportunity to serve the public good by restoring public confidence in the traditional bipartisan consensus in support of protecting the environment that has existed for much of this century until very recently.

And, I, like the other members of the committee intend to vote for you.

Believe me, I want very much for you to succeed, to do the good job that we all know that you are capabble of and we want to do the best we can to be helpful in that regard.

Mr. Ruckelshaus. Thank you, Senator.

Senator Mitchell. Thank you, Mr. Chairman.

Senator Stafford. Thank you, very much, Senator Mitchell.

I really think that your searching questions have added to the clarity of our judgment when we meet tomorrow on the confirmation of Mr. Ruckelshaus.

There is one routine question I might ask you; that is, I assume you would be willing at the request of this or any other committee of the Congress to appear in front of it as a witness at whatever time could be arranged between you and the requesting committee?

Mr. Ruckelshaus. Yes, Mr. Chairman.

Senator Stafford. I, too, will have a few written questions I would like to submit to you. Some are on behalf of my colleague from Vermont, Senator Leahy.

I will get those to you today.

This has been the most intensive get-acquainted session between this committee and a nominee at least in the memory of this Senator.

I think it has been good for both you, Mr. Ruckelshaus and certainly for we of the committee.

What seems to have been mislaid in the last few months is the historical truth that the environmental laws of this Nation were written with the Congress and the executive branch working together.

That partnership was an uneasy one at times but I think it has produced some very remarkable results. I hope that we will soon see a renewal of that spirit of mutual support and cooperation where we can disagree without being disagreeable.

I know I speak for myself and I am confident I can speak for the committee in saying that we will assist you as we hope you will assist us in restoring environmental protection as a nonpartisan goal of this country.

Having said that, congratulating you on your appearance before us, unless you have some final statement——

Mr. Ruckelshaus. No, Mr. Chairman.

Senator Stafford. All right, sir.

I shall announce this meeting adjourned and the committee will meet at 10 o'clock tomorrow on the question of your confirmation.

[Whereupon, at 1:10 p.m., the committee adjourned, to reconvene at the call of the Chair.]

[Material submitted for the record and responses to written questions follow:]

RESPONSES TO WRITTEN QUESTIONS

OF

THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

NAME: STAFFORD

QUESTION #1:

Are you aware of possible mismanagement and employee harrassment in EPA's Office of Civil Rights: Has any action been taken?

ANSWER:

I have been made aware of complaints from the OCR. As EPA Administrator, I will look into problems of that nature. I am committed to working with the career EPA staff to bring better management practices and employee relations to the Agency.

QUESTION #2:

In the many articles you have written and speeches you have delivered, you have frequently expressed the view that our pollution control laws are too rigid and detailed. They are written, you have said, as if the Congress did not trust the Executive Branch enough to provide it with the latitude and flexibility to enforce the laws under varing circumstances.

It has long been the opinion of this Senator that our pollution control laws contain ample flexibility. Indeed, I think that the experiences of the last two years vividly attest to this. But that question aside, I want to explore the degree to which you will enforce laws with which you disagree.

You are a former legislator yourself. As such, you understand better than most that the legislative branch is basically impotent. We can pass a law, but we cannot force the Executive Branch to implement it, much less implement it the way Congress intended it.

A case in point is a provision of the Superfund law requiring the designation of an agency within the Department of Health and Human Services to deal with health-related toxic chemical issues. Although nearly two and one-half years have passed, the Agency has still not been created. Yet those of us in the Congress can do very little about this other than cheer on those who have filed suit in Federal court to force creation of the Agency.

There is one other action we can take, however. That is to write the law with much greater specificity and detail the next time it is amended. Thus, we compel a reluctant Administrator to act, whether or not he wants to.

Much of the specificity of which you have complained was written into the law after you left the Environmental Protection Agency.

Do you believe those details were written into law because of Congressional reaction to the way you were administering the law? And, do you understand that the natural--in fact, inevitable--reaction of the Congress to a reluctant Executive Branch is to write highly detailed, very specific and rigid laws?

ANSWER:

I agree that the reasons for Congress imposing specific requirements on the Executive Branch are often justified. That does not lessen my conviction that the resultant lack of administrative flexibility causes distortion contrary to the public interest. Somehow the cycle of lack of administrative responsiveness to Congressional mandates, subsequent deterioration of Congressional trust and imposition of specific requirements by Congress which cause distortion must be broken. I will work hard with the Committees of Congress to break the cycle.

QUESTION #3:

It has been reported that former Administrator Burford attempted to purge EPA's Science Advisory Board of all scientists believed to be too inclined to protect the environment. James Watt, in turn, has defended the practice of checking the political affiliations of all potential advisory committee members with the Republican National Committee.

The Federal Advisory Committee Act requires that advisory committees be "fairly balanced in terms of the points of view represented." What criteria do you intend to use in appointing members to EPA's Science Advisory Board and other advisory committees? What would you do to rectify the situation created by Mrs. Burford and insure that the composition of EPA's advisory committees is properly balanced? Do you support the practice of clearing prospective advisory committee members with the RNC or other partisan political groups?

ANSWER:

I believe that science is (or should be) politically neutral and that the appropriate role of the SAB is to provide an assessment of the scientific facts and uncertainties. To ensure a balance of scientific views, I will explore changing the process by which SAB members are selected. One possible approach would be to use the National Academy of Science and professional organizations such as the American Chemical Society to nominate or recommend SAB members. Such a mechanism would help ensure selection of the most highly qualified scientists and would be politically neutral.

QUESTION #4:

How do you intend to implement this Executive Order (E.O. 12291) as Administrator of EPA? Which of EPA's statutues, in your view, permit cost-benefit analyses to enter into your decision and which do not?

ANSWER:

I intend to faithfully implement E.O. 12291 for all major regulations because it clarifies the consequences of regulatory activities. In addition to ensuring that the most efficient regulatory responses are elicited, benefit-cost analysis helps as a tool to understand the impact of all our actions.

As to which statutes permit cost-benefit analyses I feel that is too complex to answer without a detailed analysis. I basically favor the Congress making that tool available to the Administrator for fashioning regulatory strategies.

QUESTION #5:

Where you are not permitted to let such analyses enter into your decision, do you still intend to use Agency resources to conduct these analyses? After all, GAO concluded that these analyses cost an average of $372,000 apiece and take substantial time to complete.

ANSWER:

Yes, for the reasons I have already mentioned. Benefit-cost analysis can assist in allocating resources in the most efficient manner. Where the law allows it, this can mean providing alternatives that achieve the same level of environmental quality while saving millions of dollars in compliance costs. In my view, the expense of the analyses are often justified even where the statute does not permit cost to be weighed, if it acquaints us with the societal expense of our action and suggests more flexible statutory provisions.

QUESTION #6:

Do you intend to advise the Director of OMB that rules which lag behind statutory deadlines should not be held up pending completion of a regulatory impact analysis and OMB review?

ANSWER:

Executive Order 12291 clearly states that if consideration of a regulation under the Order would conflict with deadlines imposed by statute or court order, that regulation is exempted from the procedures prescribed by the Order. I have every intent to comply with the requirements of the Executive Order, but only to the extent permitted by statutorily or judicially imposed deadlines.

QUESTION #7:

Finally, where you do conclude that you have the authority to submit cost-benefit analyses to OMB for review, how do you intend to ensure that OMB does not listen solely to the views of powerful business interests affected by the rule and thus become a conduit for the views of these interests?

ANSWER:

I will have the final authority to promulgate regulations, not OMB. Furthermore, when EPA conducts benefit-cost analyses, they become part of the public documents associated with the regulations, and they are available for examination so that anyone can judge for themselves whether business interests are unduly influencing the Agency's action.

QUESTION #8:

The recent Grace Report commissioned by the Administration indicated that, though much rhetoric has been spoken on delegation of environmental programs to the States, not much has occurred, especially in the emerging area of hazardous wastes.

Inconsistent interpretation by both EPA headquarters and by regional offices as to the Agency's delegation policy has proved an obstacle to States receiving final authorization of the Resource Conservation and Recovery Act programs. States are encountering Headquarter and/or Regional insistence that State programs must be xeroxes of Federal laws and regulations to qualify for state primacy. What is your policy for States to be approved as authorized for RCRA responsibilities? Must States be identical to the Federal regulations, or may they demonstrate that their programs are equal in effect to the Federal program?

ANSWER:

I too am concerned about the tendency for EPA in delegating authority under several of the major environmental statutes to insist that State programs be virtual xeroxes of Federal laws and regulations. This insistence on such close replication is a stumbling block to the partnership with the States envisioned in the major environmental statutes. One of the principal reasons that EPA has insisted on States' adhering closely to the Federal pattern is relatively restrictive language in a number of authorizing statutes. To the extent that this is so, I would hope that any reauthorizations of the environmental statutes would make explicit States' latitude in program design, provided they meet equivalent standards.

QUESTION #9:

How will you, as the new EPA Administrator, work with the States to assist them in obtaining and maintaining program primacy?

ANSWER:

I understand that the Agency has conducted pre-application reviews of the statutes of 28 States. This process allows early identification of possible statutory problems which might impede authorization. EPA is continuing to review other States' statutes as requested. EPA will help the States in developing statutory and regulatory changes as needed.

Regional Administrators are working with State agencies to develop State-specific strategies to identify and resolve authorization impediments. EPA will continue to provide State program grants for use in developing, as well as implementing, authorized programs.

I believe in State primacy and will actively pursue the authorization of State programs. However, I will not authorize substandard authorization. Where States do not qualify for authorization or do not desire authorization, we will implement the Federal program as required by the statute.

QUESTION #10:

As the States assume final authorization under the Resource Conservation and Recovery Act, what role will EPA play in the oversight of these programs? Do you plan to develop an Agency policy on oversight across environmental programs?

ANSWER:

It is true that the assumption of final authorization means that the State is authorized to operate its program in lieu of our operating the Federal program; but it also means that the State bears the responsibility for operating a program of the quality required by the Federal statute. It remains our job at EPA to make sure that the national program, as provided in the Federal statute, is implemented. Regardless of authorization, EPA retains its responsibilities to implement the national program which includes the granting and withdrawal of State authorization.

It is obvious that the national program which RCRA provides for is to be operated as a State-Federal partnership. As Administrator I would intend to implement the program via this partnership arrangement. In the final analysis, however, the Federal government cannot abrogate its many responsibilities under the Act. EPA will be actively engaged with the States in assisting them to operate these programs and, simultaneously, to oversee their efforts. Work is underway at the Agency to develop oversight guidance for the several programs which we delegate to the States. This all must be done with an eye toward minimizing the paperwork and second-guessing so inherent in a program of this type.

QUESTION #11:

Will you support adequate funding of state grants to allow the States to upgrade programs and maintain the minimum standards set by Federal statute for protection of this nation's environment?

ANSWER:

As I indicated in my testimony, I believe that if the States wish to assume more of the responsibility for implementing Federal environmental statutes, they must also shoulder a greater share of the financial burden of doing so. I have no fixed view at this time of the extent of that burden. However, I understand that within EPA a study is currently ongoing regarding the future roles for the various levels of government--Federal, State, and local--in implementing these statutes. And, of course, I will work closely with the States and the Congress in developing recommendations based on that study.

QUESTION #12:

Do you share the view that post-comment period letters to EPA and OMB are "wholly legitimate" notwithstanding the fact that other parties to the rulemaking had no way of knowing about them?

ANSWER:

It is entirely proper for members of the public to communicate with the government on rulemaking matters, whether before, during, or after a public comment period. However, I believe that all such communications should be made part of the public record. If post-comment period communications are received prior to the issuance of a final rule, the communications are required to be docketed in the public file and made available to the public. For post-comment period communications that are received after the issuance of a final rule, I have asked that agency guidance be developed to insure that such communications are made available to the public.

QUESTION #13:

In calendar years 1981, 1982, and 1983, no rebuttable presumptions against registration were issued. Does this seem to reflect a less than aggressive attitude toward enforcement of this provision of the Federal Insecticide, Fungicide and Rodenticide Act?

ANSWER:

As you know, the RPAR process was developed in 1975, after I left the Agency. Thus I am not personally familiar with the details of the program. I will repeat my assurance, however, to administer all of EPA's laws vigorously as they are written, including statutes like FIFRA designed to protect public health from harm due to exposure to chemicals.

QUESTION #14:

Of those RPAR's which had been issued prior to January 20, 1981, a substantial number have been returned to registration for the first time in the program's history. Does it strike you as unusual that this would have happened not once but a half dozen times for the first time in the program's history?

ANSWER:

As I indicated previously, I do not have detailed knowledge of the RPAR program such that I can respond. As I understand it, pesticides may be returned to registration with conditions intended to ameliorate the problems identified during the RPAR process. I will be happy to see that a detailed report is submitted to the Committee on any registration about which you may have questions.

QUESTION #15:

During the past several years the amount of money and number of people assigned to the pesticides program has declined sharply. But during the same time period the workload--that is, the number of registrations, exemptions, etc.--has risen sharply. Does it seem likely that under these circumstances the new registration applications and the other data were being adequately reviewed?

ANSWER:

It is true that the resources of the pesticides program have decreased and the workload has increased significantly. One possible consequence of these changes could be a decline in the quality of data reviews. However, there are other responses to this situation which I believe are both more responsible and probably more likely. Specifically, I have been told that the Office of Pesticide Programs gave careful scrutiny to its registration processes to see where efficiencies could be gained without sacrificing careful scientific review and then instituted a number of changes which have enabled them to offset at least part of the increased workload while still maintaining the quality of their scientific assessments.

There is a point, of course, beyond which administrative efficiencies will no longer suffice. I realize that the quality of pesticide evaluations is the heart of that regulatory program and this is one of the issues which I will personally look into.

QUESTION #16:

Should there be a more complete assurance that, first, there is adequate testing of new substances and, second, that agreements for testing are binding and enforceable?

ANSWER:

As I understand it, the recently adopted program of negotiated testing agreements is one approach used by the Agency to meet the statutory deadlines for responding to the Interagency Testing Committee and to clear up backlogs of chemicals awaiting testing decisions by the Agency. Obviously, the point of testing a chemical is to produce data which will allow a decision to be made as to whether manufacturer, processing, or use of the chemical should be controlled. In efforts to speed the receipt of chemical testing data, the Agency endeavored to negotiate testing programs for certain of these chemicals with appropriate industry manufacturers or consortia when it was felt industry would effectively meet the agency's testing concerns without going through the rulemaking process. If these concerns are not met, the agency will not continue negotiations and will pursue rulemaking.

QUESTION #17:

How can large numbers of chemicals be either untested or tested for effects other than those identified by the ITC be justified, especially since the chemicals by definition pose significant health hazards?

ANSWER:

TSCA established an Interagency Testing Committee (ITC) to recommend existing chemicals to EPA for testing consideration for testing rules under Section 4 of TSCA. As I understand it, the ITC performs a relatively rapid screening function and does not purport to make a comprehensive assessment of the chemicals recommended, or of their health or environmental hazard or risk. Therefore, it is inaccurate to say that the chemicals by definition "pose significant health hazards." Indeed, I am told that in the eleven reports received from the ITC to date, a majority of the effects listed for testing consideration were listed due to lack of data and purported exposure, rather than due to a conclusion that the particular effect was likely to occur. Moreover, to require testing, the Agency must find that the currently available data are insufficient to either reasonably determine or predict the effects under consideration. Of course, such a finding requires the Agency to carry out extensive investigation of extant data.

As I indicated in my response to question 16, EPA is proceeding vigorously to comply with a court order to respond to ITC recommendations. I will see that the Agency meets its obligations fully.

QUESTION # 18A:

a) Do you feel bound by a former AA commitment, if made, that there would be no regulation of chlorofluorocarbons (CFC) during this Administration?

ANSWER:

Let me respond to your question in two parts. First, I am unaware that any assurances have been given by anyone to industry that CFC's will not be regulated during this Administration. I believe in honoring commitments made by the President and those that have undergone the rulemaking process with full public input. Any change from the latter situation would be through similar rulemaking procedures.

QUESTION #18B:

b) What specific action will you take to assure that the CFC question is examined on the basis of impartial evidence?

ANSWER:

I understand that EPA in 1982 began a two-year joint project involving NOAA and the World Meteorological Organization to upgrade ground-based monitoring of the vertical distribution of ozone at selected observing stations around the world. The information gained from this project should add to our understanding of stratospheric processes. I intend to carry out the mandate of Congress in the Clean Air Act to protect the ozone layer from man-made activities and will assure that we have adequate research and monitoring data to evaluate the need for further CFC regulation.

QUESTION #19:

During the past two years nominees for scientific advisory committees have been required to be politically acceptable. Will you make any changes in the present composition of these scientific advisory committees to eliminate any bias that might exist because of these politically screened appointments and what action, if any, will you take with respect to future nominees?

ANSWER:

As I indicated in question #3 above, I will seek a politically neutral mechanism to help ensure selection of the most highly qualified scientists.

QUESTION #20:

Recently, the Environmental Protection Agency's proposed groundwater protection plan was submitted to and rejected by the Cabinet Council of Natural Resources and the Environment.

It is becoming increasingly clear that contamination of groundwater supplies is a serious and growing problem. In preparation for your nomination hearing this Committee requested information on the extent of (ground) water contamination with just one chemical, TCE. TCE is a chemical widely used as industrial solvent. The Agency estimated that about 120,000 tons per year of TCE is released into the environment, much of which finds its way into drinking water supplies. The response to our questions also said that 97 percent of all groundwater systems sampled so far have trace amounts of TCE and that, at high dosages, the chemical induces a carcinogenic response in male and female mice. Technical grade TCE tests positive for mutagenicity in bacteria and yeast cultures. This chemical is only one of a wide variety known to contaminate groundwater supplies throughout the United States.

Although you were not at the Agency when the previous strategy was developed and then rejected by the Cabinet Council, can we expect you to make groundwater protection one of your priority items?

ANSWER:

I share your concern about existing and potential contamination of ground-water supplies. I will review EPA's ground-water policy and activities as an early priority and would be happy to respond to you with greater specificity as to what steps should be taken to improve the protection given this vital resource.

QUESTION #21:

Should TSCA be used to control TCE given the production volume and presence of TCE in drinking Water?

ANSWER:

I am informed that the levels of TCE in drinking water, while generally very low, are high enough to warrant concern in certain water systems. Accordingly, EPA is currently evaluating sources of TCE contamination to ascertain the best course of action to deal with it.

As you know, TSCA is a "gap-filling" statute which EPA is to use when other authorities are not effectively addressing the problem. Accordingly, we will review the entire range of authorities available to us and other agencies in developing any required control program. It is my understanding that TCE, along with other solvents, is currently receiving priority EPA attention. A Solvents Workshop has been formed to coordinate agency activities and to assure that appropriate authorities are used. TSCA is only one of the authorities which will be examined.

QUESTION #22:

Toxics contamination of groundwater is one of the most serious nationwide public health threats. We have a number of pieces of environmental legislation that address certain aspects of this problem. However, it is clear that contamination from waste disposal sites and other sources continues to occur.

EPA had committed significant time and resources to the development of a national groundwater management plan. Recommendations, which were to be released early this year, have not been forthcoming. I believe this reflects EPA's past policy of limiting Federal responsibility in the environmental arena.

I would like to hear your view on the role that EPA should play in addressing this serious national environmental problem.

ANSWER:

I share your concerns that this nation's ground-water resources require protection. There are currently many EPA provisions designed to provide that protection through RCRA, SDWA, Superfund, etc. EPA and the States are now working to make these programs a reality. When they are fully implemented I think we will see a major impact on ground water protection.

EPA has identified a number of areas, through its ground water policy deliberations, where efforts can be strengthened. These include providing States greater support in assessing their ground-water problems and developing State-specific strategies as well as better coordinating EPA programs which protect ground water.

I expect to review EPA's role in this area as an early priority and would be happy to respond more fully at that time.

QUESTION #23:

Would you please review this situation, with respect to the D.C. circuit court decision which prohibits states from enacting noise control legislation and the fact that since we no longer have a federal noise control program there is no federal, state or local noise control at all. Then review this Committee's proposal from two years ago, and tell us whether as the Administrator you would support our efforts at repeal or, if they fail, as they have so far, support reestablishment of the Federal noise program.

ANSWER:

The noise program presents a number of complex issues involving the desirability of preemptive standards. I have not yet had an opportunity to evaulate these issues, but will do so if I am confirmed.

NAME: RANDOLPH

Question #1:

Acting Administrator Hernandez and Assistant Secretary of the Army, William Gianelli, have both written to Vice President Bush regarding the status of the Sec. 404(b)(1) Guidelines.

Do you believe the Guidelines should be regulatory in nature or simply nonbinding guidance?

Answer:

The Presidential Task Force on Regulatory Relief directed that modifications to the 404 program be implemented, to the extent possible, by November 1982 in order to make the program more certain in its results and more efficient. EPA has drafted revisions to the guidelines which would streamline and add greater certainty to the section 404 permitting process, without trimming the program's coverage or capability to protect ecologically sensitive wetlands. So far, however, EPA and the Army Corps of Engineers have not been able to agree on whether the EPA guidelines should be regulatory (i.e., binding) in effect. While I believe that EPA's role is too important to be merely advisory in nature, I will work with the Army for an early resolution to this question.

Question #2:

Do you agree with the Administration's proposed pretreatment waivers based on the achievement of designated uses by POTWs? If so, are the biological sciences advanced enough to provide reasonable certainty as to the achievement of water quality standards on affected stream reaches?

Answer:

The Administration has not submitted any proposed amendments on the CWA to Congress. Once confirmed, I will immediately review all pertinent data and policy options to determine whether such an amendment is warranted.

Question #3A:

What has been the Agency's experience in granting similar modifications to ocean discharging POTWs? Is it true that the Agency has issued waivers to certain POTWs, such as Los Angeles County, where the facility's discharge has been identified as the major cause of a disease source for aquatic species?

Answer:

I am informed that EPA has announced 24 tentative decisions on applications for modification of secondary treatment effluent standards for publicly owned treatment works discharging into marine waters. About one-half of these tentative decisions were approvals, one-half were denials, and one was a partial approval. EPA has tentatively approved the application of the Los Angeles County Sanitation Districts (LACSD). This tentative decision was based on a demonstration that an important discharge would comply with all statutory criteria, including an approved pretreatment program, compliance with adopted water quality standards, the existence of a balanced, indigenous population of fish, shellfish and wildlife. EPA found that while the existing discharge was identified with disease problems within aquatic species, the proposed substantial reduction in toxic pollutants, especially chlorinated hydrocarbons and heavy metals, would result in compliance with the above statutory criteria. This tentative decison will be subjected to public comment and analysis. Approved modifications will be subject to detailed environmental monitoring programs to ensure continued compliance with these criteria. In the event of non-compliance of the permit conditions or of the statutory criteria, a modification would be withdrawn and secondary treatment would again be required.

Question #3B:

If such a waiver is possible to construct please explain why it was not suggested for direct dischargers subject to BAT such as Dow Chemical and other organic chemical plants?

Answer:

The Administration has not decided whether a pretreatment waiver amendment is necessary and appropriate. Similarly, it has not decided whether a BAT waiver amendment is appropriate. Once confirmed, I will review the data and options relating to both potential amendments to determine whether either or both should be submitted as a proposed amendment to Congress.

Question #4:

Is it true that many pesticides are considered non-conventionals? If so, is the Agency's BAT regulation for pesticides subject to waivers under 301(g), i.e. will pesticides manufacturers be allowed to discharge their wastes into streams due to a quirk in the law?

Answer:

It is my understanding that under Section 307(a) of the Clean Water Act certain pesticides are listed as toxic pollutants and therefore not subject to waivers under Section 301(g). However, not all pesticides are listed as toxic. For those not listed, 301(g) waivers could be considered.

NAME: SIMPSON

QUESTION #1:

There has been a great deal of change in the twelve years since you first took on the task as EPA Administrator. What are the major differences between the job you had to do then and the job you are facing now?

ANSWER:

At EPA's inception our focus was largely on control of conventional pollutants that had turned some rivers into open sewers and threatened much of our air. During the 1970's, often described as the first environmental decade, our nation made remarkable progress in reducing this visible and gross pollution. Today, an increasing portion of EPA's time and resources is devoted to control of toxic pollutants that are found in minute quantities in the environment but that nevertheless may have life-threatening consequences. As I indicated in my opening statement today, I would place an increased priority on development of a coherent national approach to hazardous waste generation and disposal, establishment of improved systems for monitoring the presence of toxic materials, and building of an improved data base on the health effects of exposures to such pollutants.

My job from 1970 to 1973 was to launch a new agency, melding together a variety of preexisting agencies and pieces of departments, and implement such ambitious legislation as the Clean Air Act and the Clean Water Act. Today I face a challenge of restoring public confidence in the credibility of an agency whose decisions pervade many aspects of our life. While restoring such confidence through an open and fair decision-making process, I would hope also to develop improved means for addressing environmental risks and for determining the most cost effective means of reducing such risks.

NAME: SIMPSON

QUESTION #2:

In your statement you say that you intend to work toward gaining greater public comprehension of the complexities of managing risk in a free society. Yet as you know the controversy surrounding the regulation of health risks is extremely technical. How can this enormous technical complexity be made comprehensible to the general public?

ANSWER:

Development of a more open decision-making process should help to foster public confidence in the agency and understanding of the complex social factors we are seeking to balance. Part of my role as Administrator would be to meet extensively with the public to explain the complexities of the issues we are addressing, and the efforts we have taken to ensure wise decisions. Education of the public has to be a priority of EPA today, much more so than when we began in 1970.

NAME: DOMENICI

QUESTION #1:

Would you explain your general views on the need for new, cost-effective ways to implement environmental laws, in particular emissions trading policy? Will you support continued research by the Agency in this area?

ANSWER:

I have several times suggested to this Committee my belief that the current laws do not provide the Administrator sufficient flexibility to search for the most cost-effective solution to our environmental and health goals. It stands to reason that the less it costs to meet environmental requirements, the more compliance we will have. The more cost-effective options a regulated firm has for coming into compliance, the faster pollution will be reduced and environmental quality improved. So long as new approaches are legal, technically sound, and structured to assure equal or better environmental results and avoid unnecessary expenditures--not just savings for industry--they should be vigorously pursued, since they help us all clean up better.

EPA currently believes the air bubble and other emissions trading steps are good examples, and that they give industry the flexibility to substitute inexpensive surplus emission reductions for expensive required ones, moving on to costly control options only after inexpensive alternatives have been explored. Because it often costs 100 times more to remove a pound of the same pollutant from one stack as from an adjacent one, this lets managers capitalize on plant-specific chances for cheaper equivalent control which are difficult for centralized agencies to take into account.

I believe the Agency should constantly look for more cost-effective ways to protect our public health and environment.

QUESTION #2:

Among Agency regulations that are behind schedule are regulations under Section 119 of the Clean Air Act, pertaining to nonferrous smelter orders (NSOs). Until NSO regulations are issued, no nonferrous smelter will receive an extension under the Act and areas where noncomplying smelters are located will be deemed as nonattainment. I would hope that you will make issuance of these regulations a high priority.

ANSWER:

Proposed Nonferrous Smelter Order regulations under Section 119 of the Clean Air Act covering the period from January 1, 1983 to January 1, 1988 are presently undergoing final Agency review. We are hopeful that the regulations can be proposed by the end of June.

QUESTION #3:

The Administration has made a strong policy commitment to recognize Indian tribal governments and "allow them to resume control over their own affairs." How do you plan to implement that policy at EPA in carrying out EPA's mandate?

ANSWER:

The President, in his Indian Policy Statement of January 24, 1983, made a strong commitment to Indian self-government and the special government-to-government relationship that exists between the Federal Government and Indian tribal governments. I fully support that policy.

In terms of EPA's mandate, I look to tribal governments to play an enhanced role in decision-making and program management affecting reservation environments. There are at present, however, some impediments, including some statutory constraints, which prevent EPA from working with Indian tribes in a direct government-to-government relationship as closely and as fully as we now work with State governments.

I understand that an EPA Indian Work Group, under the guidance of the Office of Federal Activities, is now completing a two-year study of program operations on Indian reservations at the request of the previous Administrator. The Work Group has been instructed to make recommendations for an Agency policy and implementation strategy, consistent with the President's policy statement of January 1983. This Discussion Paper will consider the details of the proper role of tribal government in the management of reservation environmental programs and propose a strategy for Agency actions to be taken in fostering and establishing that role, consistent wth the principle of tribal self-government.

After I review the Work Group's paper, I will report to the committee on any appropriate recommendation.

QUESTION # 4:

Over the past year, EPA staff has been drafting an agency policy to guide it in carrying out its programs on Indian lands. This is a worthwhile endeavor as many of the statutes under which EPA operates do not specify how they are to be implemented on Indian lands nor the role of tribal governments. Do you plan to continue this effort? How much time would you estimate that it will take to have an EPA Indian policy in place? What assurances are you prepared to give that the necessary priority resources and manpower will be given to Indian issues in order to move issues beyond the "study" stage and to demonstrate the seriousness of your commitment through action?

ANSWER:

As I mentioned in response to your first question on this topic, the Agency has been working for over a year to analyze the many complex factors affecting program administration on Indian lands. This study, which is now in the form of a draft Discussion Paper, will provide me with the basis for decisions on the proper EPA and tribal roles and approaches to meet reservation needs. This will provide the basis for an EPA Indian Policy which I would hope to issue soon, with an implementation effort to be carried out consistent with the Policy.

I understand that the Agency has only now begun to address the particular legal and programmatic circumstances of Indian reservations and tribal governments after a decade spent working primarily with states. Having begun, however, I can assure you that we will continue this effort and ensure that our programs in fact function as effectively on Indian lands as elsewhere, consistent with the President's position on Indian self-government.

QUESTION #5:

Several tribes have complained that they have had difficulty receiving funding from EPA for which they are eligible, in part, because EPA does not have a policy in place to recognize Indian tribes. For example, the application of the Jicarilla Apache tribe in New Mexico for an air quality management grant has been put on hold for over one year while EPA studies the requirements of Indian Tribes and the resources available to meet their needs. Do you think that EPA under your management will be able to meet the needs of Tribes, such as the Jicarilla Apache, for assistance in environmental control?

ANSWER:

It is my understanding that the Jicarilla Apache Tribe's application for an air quality management grant was postponed along with a number of other EPA actions on Indian issues, pending completion of the study to which I have referred in my previous answers to your questions. This has been explained to the Jicarilla tribal leadership as well as to various Indian organizations who have expressed interest.

As I replied earlier, this study is near completion and I will ask the Indian Work Group to complete their work and foward their recommendations to me for decision soon.

QUESTION #6:

What assurances can you give this Committee and tribal governments that under your leadership EPA will take aggressive steps to work with tribal governments on reservation programs--at least as cooperatively as you have worked with State governments on programs to protect the environment of reservations?

ANSWER:

As I have stated, I am aware of the special status and circumstances that require a new and somewhat different EPA approach to the Administration of environmental programs on Indian lands. I have also stated that I am committed to taking the steps necessary to fix the problem in a manner that is effective and in keeping with the President's policy on Indian self-government.

NAME: DURENBERGER

QUESTION #1:

What do you believe the role of the Science Advisory Board, the Clean Air Scientific Advisory Committee and the other advisory groups should be in providing direction for EPA's research program and advice on EPA regulatory decisions?

ANSWER:

The role of the Science Advisory Board and other advisory groups is to provide the Office of Research and Development and the Agency with independent scientific advice and technical comment on particular issues and proposals. It is the Agency's responsibility to set direction and determine policy. However, I do believe the Agency should work closely with such groups in order to ensure that the best scientific advice is available as a basis for the decision-making process.

QUESTION #2:

During the last ten years, the increase in the ability to detect trace levels of contaminants has improved by a thousand fold to as much as a million fold. Yet this advance has not been accompanied by an equivalent increase in the ability of the Agency to deal with the new technical capabilities. How do you see getting a better balance between enhanced technical capability and sound public policy judgments?

ANSWER:

The balance between enhanced technical capability and sound public policy judgments is a serious management--and possibly statutory--issue which will receive my personal attention upon taking office.

QUESTION #3:

In light of these and other advances in science, and the way we are pushing science to the limit, how can the Agency ensure adequate and effective peer review of research results? In situations where scientists argue two opposing sides of an issue using the same data, what role do you see EPA playing in resolving such disputes?

ANSWER:

Adequate and effective peer review of research results by any Agency or organization is accomplished best by requesting and utilizing the advice of other scientists who are recognized experts on the subject. Such peer reviews should be a required integral task in every research program plan. Furthermore, Agency researchers should be required to respond to the advice offered by peer reviewers. I am given to understand that EPA's ORD has developed and implemented procedures requiring such peer reviews and conducts them utilizing very knowledgeable scientists and engineers from academia, other agencies, and industry. I also understand that the face-to-face dialogues between the peer reviewers and EPA researchers are extremely effective in improving and maintaining EPA's research activities at the frontiers of science.

In regard to the question you raise where, using the same data, scientists argue different sides of an issue, the EPA role is to obtain the best scientific knowledge from the most capable sources and seek evaluation of the quality and meaning of that information.

QUESTION #4:

The Research and Development program is one of the most significant activities in the Agency, providing the scientific and technical data base for all Agency standards and regulations. Yet it has sustained the highest percentage of reductions in both dollars and personnel within the Agency since 1981.

Is it your view that this fact reflects a major policy shift of the Agency or the Administration to severely curtail or even eliminate the research and development program?

Where else will such research and development activities be conducted to adequately support the regulatory needs of the Agency?

ANSWER:

It is my understanding that my predecessor did refocus the Agency's research and development agenda based on the following conclusions: that EPA had completed much of the ongoing research necessary to support the regulatory decisions facing us; that the Agency should reorient its research program away from areas that are not directly relevant to its legislative mandates; and that industry should take a fair share of the responsibility in developing control technology. I will reexamine the resource situation and the research agenda to be sure that we are doing all that needs to be done to adequately support our enforcement and standard-setting functions, plus other research efforts necessary to properly carry out the Agency's mission.

QUESTION #5:

What is your view of the role of research in EPA and what steps will you take to ensure that a high quality, useful research program be reconstituted at EPA? Is it your intention to reexamine the role of research in EPA and determine the proper direction and adequate resource support for the Agency's research and development program?

ANSWER:

Reexamining the role of research in EPA is a high priority and a task I will undertake upon being confirmed and assuming the position of Administrator. I believe a quality research program is critical to the Agency and upon completing my review of the current situation, will seek whatever resources may be required to assure the research and development effort meets EPA's needs.

QUESTION #6:

In view of the changes and redirections that have occurred in the research program over the past two years, do you believe it constructive to embark on a major reorganization of the program at this time?

ANSWER:

I have not examined the proposed research reorganization in any detail. Upon review of EPA's research agenda and the current organization's ability to effectively carry out this agenda, I will fully consider any proposed modifications that might enhance the abilities of that organization.

QUESTION #7:

What is your interpretation of the role of the Office of Research and Development within EPA? Should it restrict itself to supporting current EPA enforcement and regulatory programs or should it also be involved with forecasting future problems and identifying improved concepts for evaluating and correcting threats to the environment? If you believe it should do both, will you be willing to provide support for the short-term research programs as well as a vigorous, long-term exploratory research program?

ANSWER:

I believe that the EPA Office of Research and Development must provide support to current enforcement and regulatory programs and that it must also be looking at longer-term problems, including efforts to identify and study emerging and anticipatory environmental problems which may arise in the future. I will be seeking to develop an adequate research program to meet both objectives.

QUESTION #8:

Over the past two years and in this year's President's budget, resources for engineering and control technology within the environmental research and development budget have been severely reduced. The implication is that industry will absorb the responsibility for developing cost-effective control technology.

Do you believe this shift in responsibility is a wise course of action? Do you believe such a change will actually occur? Will it require legislative direction or incentives for such a change in responsibility to occur?

ANSWER:

I understand that the Agency's budget reflects what your question suggests. I will carefully review this situation on a case-by-case basis and assess what incentives are available to assure control technology is being developed by the private sector. If incentives can be developed I will work toward that end.

QUESTION #9:

Will you be willing to initiate a review of the research program to ensure that adequate resources are devoted to health effects research to support both the short-term needs of the regulatory programs and the need for long-term exploratory research to identify emerging problems that may ultimately have to be regulated by the Agency?

ANSWER:

Yes, I will be reviewing the entire research and development program to determine whether adequate resources are being devoted to the health effects program area and to that responsibility of the Agency. I believe it is vital to a sound research program to support both short- and long-term needs in the health effects area.

NAME: BENTSEN

QUESTION #1:

Mr. Ruckelshaus, one issue that continues to be raised is the conflict between the need to develop timely regulations and the need to have an adequate technical basis to believe that they are feasible. You have seen this problem from both the regulator and the regulated sides. Do you have any thoughts on how to improve the process?

ANSWER:

The only way to achieve both objectives--timely regulations and an adequate technical basis--is to do a better job of planning and coordinating EPA's research and information collection programs so that the right technical information is available at the right time. I intend to examine EPA's research planning process to see where we can make changes.

EPA's research must be directed between the necessary basic and long-term research and the shorter-term regulatory needs. This question of balance will be one of the more pressing research policy issues I expect to address.

Because much of the information we need for standard setting is available from the regulated sector, we also need to take a close look at the ways in which we gather that information.

Finally, as Russ Train, Doug Costle and I have requested many times, give us more flexibility and I can assure you that data and regulatory action will coincide.

QUESTION #2:

In recent years the number of requests submitted to States for Section 24 and 18 pesticide uses has increased tremendously. The primary reason for this has been the failure of EPA to review company data and issue federal registration of new products or new uses of old products. How do you propose to improve the registration process to allow for increased efficiency in product review and registration?

ANSWER:

I understand that it is indeed true that the number of section 24 and 18 pesticide uses has increased in the past few years. It is also my understanding that the Office of Pesticide Programs has just completed a comprehensive audit of these programs which examines the trends over the last five years, and identifies potential problems and possible solutions. I haven't had the opportunity to study the audit yet myself, but will certainly do so if I am confirmed by the Senate.

Concerning the registration process, I will look into the question you have raised. I have heard, however, that the Agency has made vast improvements in the turnaround times for handling registration actions under section 3 of the law, and that the numbers of registrations for new products and new uses under section 3 indicate a very active and vigorous program.

QUESTION #3:

Another reason for the increased reliance on emergency uses and special local needs registrations is the failure of EPA to implement a smoothly functioning system for registering products for use on minor crops. If the IR-4 process were given more resources, the number of requests that have to be processed for special local needs and emergency exemptions would decrease. What changes would you make in the IR-4 Program to handle this problem?

ANSWER:

It is my understanding that registration of minor uses has always been a difficult issue. It is one that EPA and USDA have been working on very actively in the past several years, and much has been accomplished. The IR-4 program is very important in resolving problems this area, and I will be glad to discuss the funding situation with USDA, which provides the resources to IR-4 and directs its activities, after I return to the Agency.

It is my understanding that section 24(c), State Special Local Needs, was specifically added to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), in large part to assist in the registration of minor uses. Therefore, I don't think we should assume that higher numbers of Special Local Needs registrations denotes a failure of the IR-4 program; it may mean that the intent of Congress is being realized in the minor use area. In fact, since the IR-4 efforts result in residue tolerances, not label registrations, State 24(c) registrations are a logical complement to the IR-4 efforts. I also understand that EPA has initiated some new ways to facilitate minor use tolerances and federal registrations, including new rulemaking for group tolerances which is nearing completion, and I plan to familiarize myself with both the progress and remaining difficulties in this program when I return to EPA.

QUESTION #4:

One of the mobile source issues that this Committee grappled with in considering amendments to the Clean Air Act was the dilemma faced by heavy-duty diesel engines. Because of the nature of the diesel engine, efforts to reduce one pollutant can increase emissions of others, thereby jeopardizing the ability to achieve emission standards for these other pollutants. What criteria do you believe should be considered in balancing the emission levels of such pollutants?

ANSWER:

Given that the primary motivation for setting emission limitations on heavy duty vehicles is air quality improvement, the limitations should be set so as to promote environmental protection. Where impacts on several pollutant concentrations must be considered simultaneously, flexibility should be available to provide the best result from the point of view of the environment as a whole. Other factors should also weigh in the determination, such as safety, fuel economy, and others.

QUESTION #5:

The Clean Air Act requires that heavy-duty engine emission standards be calculated using a gasoline baseline. Since heavy-duty diesel engines differ from gasoline engines in operating characteristics and levels of pollutants, do you believe that EPA should devise a separate long range regulatory program for diesel engines which considers the differing technology?

ANSWER:

I am not familiar with problems created by the current Act's requirement that heavy-duty standards be set using a gasoline baseline, especially since the Act permits the statutory standards to be revised. But as I've stated before, I believe the EPA Administrator should be given more flexibility to deal with individual situations. It would be appropriate for the EPA Administrator to be able to consider different technologies in developing a regulatory program which not only achieves maximum emissions reductions but most fairly allocates the costs of those reductions.

QUESTION #6:

Various chemicals - herbicides, pesticides - are used in agriculture. Decisions on the use of these chemicals often appear to be more political than scientific. Do you have any views on whether, or how, decisions should be based on scientific evidence or scientifically-acceptable level of use?

ANSWER:

Sound scientific evidence should always be the foundation of any regulatory decision on the use of chemicals. There can be no disagreement about the need for good science. However, no matter how good the science, it will not give the decision-maker clear cut, yes or no answers to the complex decisions which must be made in the regulation of chemicals. Though our knowledge of chemicals is much greater now than it was even ten years ago, there are many scientific questions and uncertainties about the characteristics and effects of chemicals which cannot yet be answered. Moreover, the decision-maker must consider not only what is known about a particular chemical and its potential effects, but he must also try to weigh a whole host of social costs and benefits which attach to the use of that chemical. The significance of these other factors are not simply matters of fact which can be calculated with rulers or scales. The final decision must be a balancing of both tangible facts and intangible social values. What the public should expect of its representatives, in every branch of the government, is to make decisions by evaluating the available information in a principled and open manner. It will always be possible to disagree on the precise merits of any given decision, since each of us has his own set of values. But we should always be able to say that the decision was made with integrity and a concern for the public good.

Question #7:

In 1972 when you were Administrator of EPA, you approved a ban on the use of a poison, Compound 1080, in the agricultural field to control predators but not on its use to control rodents in urban areas. Last year an EPA administrative law judge, after a number of hearings, recommended to the Administrator that the ban be loosened to a limited extent. The Administrator never ruled so the issue is still pending. In view of your previous involvement, do you have any views now as to how you will deal with this issue if you are confirmed as EPA Administrator?

ANSWER:

I can only say at this time that I would carefully review the record from the Administrative Law Judge and the adjudicatory hearing before coming to a decision on the future use of 1080 in predator control.

QUESTION #8:

Are you aware of possible mismanagement and employee harrassment in EPA's Office of Civil Rights? Has any action been taken?

ANSWER:

I have been made aware of complaints from EPA's Office of Civil Rights. As EPA Administrator, I will look into problems of that nature and am committed to working with the career EPA staff to bring better managagement practices and employee relations to the Agency.

QUESTION #9:

Some areas of the country are having difficulty meeting the deadlines for complying with the fluoride standard in drinking water. It is my understanding that the National Drinking Water Advisory Council has recommended relaxing the current standard.

-- What is your position on amending the current standard?

-- If you do intend to change it, when would this take place?

ANSWER:

It is my understanding that EPA has been engaged in an accelerated review of the fluoride standard separate from all of the other revised regulations in response to a petition from the State of South Carolina. The review includes occurrence, treatment technology, costs and health effects. Advice from the Surgeon General is a key element in the health effects determination. The review of the dental effects has been completed and submitted by the Surgeon General. A second review of the toxicology by a panel of medical experts is expected from the Surgeon General in about two months.

EPA would be in a position to make an initial determination shortly after the final report on health risks is received from the Surgeon General. EPA will evaluate all of the data in the light of the directives of the Safe Drinking Water Act and proceed accordingly.

QUESTION #10:

It is my understanding that EPA is now reevaluating State grant formulas under RCRA. This process is using information that has been developed by an EPA contractor. Several States and other individuals have significant questions about the quality of the information. I would request that no final action be taken on the grant formula changes until States have the opportunity to crosscheck the information and assure that it is accurate. I would also request that no State's funding level be changed until this issue is resolved.

ANSWER:

It is my understanding that the grant formula EPA has used through Fiscal Year 1983 was developed in concert with the States in 1978. The elements which compose the formula reflect (1) State population, (2) amount of waste generated in the State, (3) number of waste generators in the State, and (4) amount of land area in the State. This old formula employed information about waste quantities and numbers of genertors developed by EPA contractors.

Last fall Agency staff suggested to the Association of State and Territorial Solid Waste Management Officials that it would be appropriate to consider changing the formula to: (1) employ different elements, for example, elements which would better reflect the States' relative workloads; and (2) reflect better data. The Association was asked to consider whether the formula should be changed and to provide the Agency with suggestions it might develop. In February, ASTSWMO provided a list of elements for possible use in revising the formula.

Over the past three months the Agency has provided the States with alternative formulas, inviting comments and suggestions. Alternatives under consideration do employ contractor data, specifically on quantity of waste generated. The data, including contractor data, used in the old (1978) formula and in the new alternatives have been provided to the States. On May 4 and 5 Agency staff met with State agency directors to further discuss alternatives.

The Board of Directors of the ASTSWMO will be discussing this matter next week. We hope that the States will complete their deliberations and provide their final suggestions by May 20. This will allow us to proceed with development of Agency guidance which will serve as the basis for FY 84 State grant negotiations.

QUESTION #11:

Houston EPA Lab: In the fall of 1981, the Laboratory Consolidation Committee evaluated EPA labs nationwide and recommended that the Houston EPA Lab be retained in the Houston area. EPA Region VI officials concurred in this recommendation. Recently, this logical conclusion has been clouded by a recommendation by the President's Private Sector Survey on Cost Control that all EPA labs be consolidated. I would like your commitment that the Houston Lab be retained in the Houston area consistent with the Laboratory Consolidation Committee and EPA Region VI recommendations.

ANSWER:

I am not acquainted with the details of these reports or the specific issues related to the Houston Laboratory. However I will, of course, review any proposed actions or recommendations related to the Houston Laboratory.

NAME: BURDICK

QUESTION #1:

Comments submitted to EPA from Weyerhaeuser Co. regarding visibility standards under the Clean Air Act haven't favored the agency interpretation of relevant provisions of the Clean Air Act.

--Do you intend to try to narrow the "integral vista" concept?

ANSWER:

Since Weyerhaeuser took such a strong position on this issue, I will recuse myself from participating in the matter.

QUESTION #2:

North Dakota has been among the leaders in the nation under the Clean Water Act and Clear Air Act. We are moving toward the same goal under the RCRA. However, there may be a danger in assuming such a program at the State level if the RCRA lacks minimum floor or base-level funding for States. Please comment on the reasons you would or would not support a base-level provision in the new act?

ANSWER:

Senator, I agree with you that North Dakota has been highly responsive to its citizens' demands for clean air and water, and I think North Dakota has shown a fine example of how the Federal/State partnership ought to work. I have already testified that I generally agree that the Federal government should assist States in the costs of administering environmental programs, and that would apply to RCRA as well as to the more established programs. However, I am not yet in a position to say precisely how much money should be shared, nor according to what formula. I will be taking up this important issue very soon after my confirmation with the States and the Committee.

QUESTION #3:

Mr. Chafee brought the wetlands protections issue to your attention yesterday. Since you've had an opportunity to consider the points he raised, I'd be interested in your comments on the following:

--Do you believe that EPA has a valid role in providing for wetlands protection?

--What are your thoughts on delegating the dredge and fill permitting program to the Corps of Engineers?

ANSWER:

Senator, I wish I could say that I have had an adequate opportunity to consider Senator Chafee's points in the depth they deserve. Unfortunately, I haven't at this point. The whole issue of wetlands protection and the respective roles at EPA, the Corps of Engineers, NOAA, and the States is quite complex, as you know. While I will need time in my new job to get the advice of EPA staff,, as well as of informed officials in other Federal agencies and the States before I can give you a considered response, my initial opinion is that EPA's role in the 404 program is too important to be merely advisory in nature.

NAME: HART

QUESTION #1:

Have you discussed with the President or his staff whether you should continue or should change this Administration's previous approach to environmental issues? If you have, could you summarize those discussions.

ANSWER:

Yes, I discussed my role at EPA extensively with the President. As I have stated before, the guiding principle behind my administration of EPA will be to carry out the environmental laws of this nation as they are written by Congress. The President assured me of his support in carrying out this objective.

QUESTION #2:

What directive has the President given you on continuing or changing his Administration's previous approach to environmental issues?

ANSWER:

The President assured me of his continuing support as I stated in my answer to question #1.

QUESTION #3:

Under President Reagan, the Environmental Protection Agency's operating budget has been reduced by about 44 percent in real dollars, despite an increase in the Agency's Congressionally mandated workload. Do you believe the Agency has adequate resources to fulfill its mission?

ANSWER:

As I indicated in my testimony before the Committee, I will give a very high priority to reviewing the current personnel and budget levels of EPA, and working with the Administration develop any supplemental requests which may be necessary. Until I have completed that review, I am not able to comment on specific numbers.

QUESTION #4:

Do you intend to seek a supplemental appropriation to increase Agency funding during the current fiscal year?

ANSWER:

Yes, if the Administration and I determine a supplemental appropriation request is necessary.

QUESTION #5:

Do you have the President's support in principle for a supplemental appropriation request?

ANSWER:

The President has assured me of a full and fair hearing on any supplemental appropriation request I may propose.

QUESTION #6:

Do you intend to seek an amended budget request for increased Agency funding during fiscal year 1984?

ANSWER:

As I indicated above, if the Administration and I determine that an amended FY 1984 budget request is necessary, I will certainly see that one is submitted.

QUESTION #7:

Do you have the President's support in principle for an amendment to his budget request for increased Agency funding during fiscal year 1984?

ANSWER:

If the President and I agree on the need for an amendment to the 1984 budget request, then he has indicated that he will support such a request.

QUESTION #8:

Do you intend to select new Regional Administrators?

ANSWER:

I will move quickly to fill the vacancies which currently exist in the ranks of the Regional Administrators. After that, I will review all such personnel matters on a case-by-case basis.

QUESTION #9:

There have been various allegations of "hit lists" being used to purge from the Agency professional staff people, consultants, and members of scientific advisory boards because of their political affiliations and policy views. What do you intend to do to ensure this is not done while you are Administrator?

ANSWER:

I intend to appoint the best scientifically qualified individuals to serve on EPA scientific advisory boards. I have made it absolutely clear that there will be no "hit lists."

QUESTION #10:

What steps do you intend to take to restore to their proper offices any professional staff, consultants, and members of scientific advisory boards who have been removed from those positions for improper reasons?

ANSWER:

I will have numerous opportunities in the future to appoint scientific advisory board members as vacancies occur. As I indicated above, I will fill these vacancies with the best qualified individuals, and will certainly give full consideration to those who have served.

QUESTION #11:

While Mrs. Burford was Administrator, the Agency's enforcement programs were repeatedly reorganized. Do you intend to leave the enforcement structure as it now is or to reorganize it? If you intend to reorganize it, please explain to the extent you can how you intend to do so.

ANSWER:

As I testified before the Committee, I do not feel that any major reorganization should be undertaken at this time, although some minor readjustments might be necessary in order to simplify the Agency's organizational structure in the enforcement area.

QUESTION #12:

Between 1981 and 1983 Region VIII conducted an in-house management study called "Project Stream." The regional office is now being reorganized and staff resources reallocated based on the recommendations of that study. Will you review this study and its recommendations before further steps are taken to implement it?

ANSWER:

If I am confirmed, I will certainly review any plans for the reorganization of regional offices before they are implemented.

QUESTION #13:

Do you intend to propose to the President that the Administration submit to Congress legislation to amend the Clean Air Act?

ANSWER:

I will work closely with this Committee in attempting to arrive at a consensus on possible changes to the Clean Air Act. Should the Committee feel that such changes would be facilitated by the Administration making specific proposals, I will work with the Administration to develop a legislative proposal.

QUESTION #14:

Last year the Senate Committee on Environment and Public Works reported by a vote of 15 to 1 a bill to amend the Clean Air Act. Do you think this bill represents a sound revision of the Clean Air Act?

ANSWER:

As I indicated in my testimony, there are several areas where I disagree with the approach taken by the Committee, but I will continue to work with you toward a reauthorization of the Clean Air Act. Until that reauthorization is enacted, of course, I will continue to carry out the present Act as written by Congress.

QUESTION #15:

This Administration's policy has been that not enough is known about acid rain to justify any measures to reduce or eliminate this problem. Do you agree with this position?

ANSWER:

One of my first priorities will be to determine what the Agency does know, and, if necessary, what the Agency needs to know, before fashioning a control program. While perfect scientific certainty is not necessary for a successful control program, we must know enough to direct our resources in the most effective way.

QUESTION #16:

This Administration's policy has been to support relaxation of the carbon monoxide and oxides of nitrogen automobile emission standards now in effect. Do you support this policy?

ANSWER:

As I indicated in my testimony, I will carry out the laws written by the Congress. Because I have not had the opportunity to examine in detail the basis for the current standards, it would be premature for me to advocate either tightening or loosening the existing requirements.

QUESTION #17:

When Mrs. Burford was Administrator of EPA, the Agency initiated a process that apparently would lead to the imposition of the Clean Air Act's "sanctions" -- the withholding of certain Federal grants -- from areas that did not achieve the national ambient air quality standards by the statutory deadline of December 31, 1982, despite having implemented EPA-approved cleanup plans. The Agency has been widely criticized for its interpretation of the Act to mandate these sanctions in these situations. The Chairman and Ranking Minority Member of the Senate Committee on Environment and Public Works, the National Governors' Association, and the Congressional Research Service have all concluded that the Agency does not have the authority to impose these sanctions in these situations. Do you believe the Act mandates or authorizes sanctions in these situations?

ANSWER:

As I testified, I am unclear as to the amount of flexibility I have under the current Act. After confirmation, I intend to ask the General Counsel to advise me on the amount of flexibility I have. I intend to use that flexibility as wisely as possible.

QUESTION #18:

When Mrs. Burford was Administrator, the Agency proposed to disapprove several newly submitted revisions to cleanup plans for areas that have until 1987 to meet carbon monoxide and ozone national air quality standards. These proposed disapprovals have been widely criticized. Do you intend to undertake a de novo review of these proposed plan revisions?

ANSWER:

These proposals, I understand, have gone through the regular notice and comment procedure. Whatever decision I make will be informed by the comments, and by my independent evaluation of the record.

QUESTION #19:

When you testified before the Senate Committee on Environment and Public Works on April 9, 1981, on reauthorization of the Clean Air Act you said: "I believe the seeds of distortion are inherent in the statutory approach taken in the Clean Air Act. The Congress must break the cycle of mutual mistrust which infuse much of the law. The Administrator of EPA must be given sufficient flexibility to devise a strategy for coping with air pollution which properly balances our desire for healthy air with our economic and energy concerns." Which currently binding statutory mandates do you believe should be replaced with provisions giving the Administrator flexibility and discretion?

ANSWER:

Consistent with my answer to question #13, I think it would be most fruitful at this stage of the Committee's deliberations for me to attempt to work for a consensus without adding further fuel to the fire by surfacing controversial proposals. I have some ideas and will advance them to the Committee if it would facilitate their process of review.

In general, of course, I favor maximizing the Administrator's flexibility within broad criteria established by the Congress, to avoid distortions which inevitably occur when the Congress gets too specific as to technological requirements or deadlines.

QUESTION #20:

You also testified: "The Federal government should be given the responsibility to protect against many adverse health or environmental effects--particularly where the problem is not confined to a specific locality.... The States should be given explicit authority to strike the balance where the interests of their citizens are primarily at stake." Which currently Federal responsibilities do you think should be turned over to the states to carry out this recommendation?

ANSWER:

With more than a dozen statutes affecting EPA, it would be impossible to list all the possible changes in the Federal/State relationships. I will be evaluating the existing statutes during the reauthorization process and suggesting changes where I think the statutory relationships between the federal government and the States could be improved. As I testified I think we need to attempt to forge a consensus among the Administrator, the Congress, and the States as to what role each should play in implementing a public health and environmental strategy.

QUESTION #21:

Agency officials have testified that the $1.6 billion currently authorized to be collected for the "Superfund" program will pay for the cleanup of only 100 to 170 of the 418 official "priority" uncontrolled dump sites. Do you support the continuation of the current Superfund taxes or the imposition of new taxes to raise additional revenue to finance a continuation of the Superfund program?

ANSWER:

As I indicated before the Committee, our nation is clearly embarked on a program to clean up abandoned dumps and I intend to work with the Committee to see that commitment through. If the extension or reauthorization of Superfund is the best way to achieve our goal, then I will work with the Administration to seek it.

QUESTION #22:

Last summer the Agency issued final regulations under the Resource Conservation and Recovery Act which had been widely criticized as being inadequate to protect public health. Do you intend to reconsider those regulations?

ANSWER:

I understand that the RCRA regulations are among the most complex issued by the Agency, and I have not had a chance to review them in depth. I will be happy to consider any specific recommendations for improvement which are proposed.

QUESTION #23:

Last year the House of Representatives and a Subcommittee of the Senate Committee on Environment and Public Works approved different versions of legislation reauthorizing the Resource Conservation and Recovery Act. Do you believe those bills represent sound revisions of that law?

ANSWER:

Both versions of the RCRA reauthorization bill considered by the last Congress addressed real public health concerns by in part further restricting the flexibility of the Administrator and by mandating further restrictions and regulations. While I have some doubts about that method of addressing those health concerns, I recognize the problems and will work with the Committee in trying to reach a mutually satisfactory approach to the problems.

QUESTION #24:

As Administrator, would you uphold the position of the professional staff in EPA Region IV that an environmental impact statement is needed to accompany the Department of Energy's proposed re-start of the L-Reactor at the Savannah River Plant, or would you continue the policy of Mrs. Burford that an EIS is not required?

ANSWER:

The basic question, as I understand it, is whether the law requires an EIS for the re-start of the L-Reactor at the Savannah River Plant. Before making any decision, I will be reviewing the legal background with my General Counsel.

NAME: BAUCUS

QUESTION #1:

Are you prepared to appeal to the President or the Office of Management and Budget for new hiring authority to supplement areas where staffing levels appear insufficient to you.

ANSWER:

Yes.

QUESTION #2:

If you appeal for additional funding for the Research and Development program, what areas would you recommend receive additional funding?

What is your position on continued funding for the Radiation research program?

ANSWER:

Senator, as I said in my earlier testimony, I intend to review all Agency programs as soon as I am confirmed in order to determine whether and where more resources are needed. I am not in a position at this time to tell you what I will decide with respect to any given Agency program, including R&D.

QUESTION #3:

What in your view is the role of a research and development program within EPA?

Do you believe that the current emphasis on research to address the immediate regulatory needs of the Agency is correct?

The latest budget submission proposes reducing work on control technology projects since this is an appropriate role for industry. Do you believe the private sector will furnish the Agency with the types of control technology development that may be needed to meet EPA standards? Would not it be easier for industry to argue that they can't comply with certain standards rather than develop new technology themselves?

Do you believe that long term and exploratory research work plays a valid role within the EPA research program?

ANSWER #3:

I believe the role of the research and development program in EPA is the same now as it has always been: to provide a solid scientific basis for regulatory decisions and to gather basic knowledge on the processes of environmental pollution and its effects on human health and ecology.

I am not certain that the current emphasis really is on the immediate regulatory needs of the Agency. I know that EPA still supports a substantial program of long-range, exploratory research. I will want to review the proper balance when I am in a position to get more information.

I do not know the answer to your question regarding the role of the private sector in developing control technology. I will want to review the experience of the Agency with the current policy before drawing any conclusions as to its success.

The real question in my mind regarding the private sector role in development of control technology is the statutory effect on incentives. The private sector will develop the technology if we have the incentives properly structured. This is where I will emphasize my examination.

The real question in my mind regarding the private sector role in development of control technology is the statutory effect on incentives. The private sector will develop the technology if we have the incentives properly structured. This is where I will emphasize my examination.

I certainly believe in the concept of a long-term and exploratory research program. I shall want to review with Agency research managers how the current program is structured and planned in order to determine whether the current approach is adequate.

QUESTION #4:

I am concerned about a perceived policy change regarding the exploratory research program especially exploratory grants and the Centers of Excellence. Should the Administration of the program remain at EPA and do you support the continued funding for the centers?

ANSWER:

The Agency has been and continues to be committed to an exploratory research effort and I believe that such an effort is important to EPA. In fact, in the 1984 President's budget, both the Exploratory Grants program and the Centers of Excellence are funded at the same level as in FY 1983.

QUESTION #5:

Do you believe that research into wood smoke air pollution problems, a growing and pervasive source of emissions, is necessary? Is EPA the appropriate entity to conduct such research and is a clear legislative mandate required to initiate it?

ANSWER:

EPA has a research initiative underway which is directed towards the air pollution problems created by wood smoke. I expect to continue that effort. I also believe that EPA is the appropriate agency for conducting research of this kind and that a further special legislative mandate is not required.

QUESTION #6:

What is your view on the re-registration of Compound 1080? Will you make a review of this matter a high priority so that our farmers and ranchers can make decisions as to how to deal with predation problems?

ANSWER:

Senator, as you know, the re-registration of Compound 1080 has been the subject of an evidentiary procedure. The status of that proceeding is that final briefs have been filed by all parties, and the record awaits review and decision by the Administrator. I can only assure you that I will give prompt consideration to this matter when I am confirmed and will render a decision after careful consideration of the record.

QUESTION #7:

What do you perceive the role of the Federal government to be in addressing the broad spectrum of noise pollution problems? If responsibility in your view should be delegated to States and localities, do you support retaining current EPA regulations affecting interstate carriers, railroads, and the proposed motorcycle regulation? Do you support Federal assistance for the Buy Quiet and ECHO programs?

ANSWER:

It is true that the President proposed elimination of the funding for the Office of Noise Abatement and Control. The Congress honored that request and no funds were appropriated for that purpose in the FY 1983 budget.

Although the current de facto position of the Administration has been that noise control programs are best carried out on a State and local level, I will be re-evaluating that position, including the appropriateness of continuing federal participation in the Buy Quiet and ECHO programs.

QUESTION #8

Congress has been awaiting the product of a two and one half year EPA initiated study of groundwater protection and management options. To date, all "strategy" or "policy" documents have appeared in draft form. Whether or not there should be a Federal presence in protecting ground water is apparently still in dispute.

-- Do you believe that EPA should have an active role and plan for promoting ground water protection? If so, would you favor instituting Federal controls to protect aquifers which presently serve or may serve as water supply sources for communities?

ANSWER:

I share your concerns that this nation's ground water resources require protection. There are currently many EPA provisions designed to provide that protection -- RCRA, SDWA, Superfund, etc. EPA and the States are now working to make these programs a reality. When they are fully implemented they will have a major impact on ground water protection.

QUESTION #9:

Should EPA subsidize States and localities which initiate efforts to protect their ground water supplies?

ANSWER:

EPA already operates a number of programs which help protect local ground water -- RCRA, CERCLA, and the Underground Injection Control program under the Safe Drinking Water Act. Both RCRA and the UIC program provide federal assistance to States for those programs.

I understand that the Agency, through its Ground Water Policy deliberations, drafted a report designed to help strenghten existing efforts. The report recommended providing States greater support in assessing their ground water problems and developing state-specific strategies to deal with them and in better coordinating EPA programs which protect ground water.

Before committing to any expanded form of State aid or grants, I will be studying this report and the existing programs to determine whether such programs are adequate and what further recommendations I will be making to the President and to the Congress.

QUESTION #10

I have co-sponsored an aquifer protection bill which expands on a provision contained in the Safe Drinking Water Act. For the record, I would appreciate your comments on the feasibility of the plan it outlines.

ANSWER:

I have not had an opportunity to review the provisions of the Sole Source Aquifer Protection Bill. However, I am concerned that the agency's current sole source aquifer program, as new designed, may not be the appropriate vehicle to launch a major national ground water effort.

I will make the review of EPA's ground water efforts one of my first priorities, and respond to you in greater specificity as to what steps I believe EPA should take to improve the protection given this vital resource.

QUESTION #11:

How do you quantify the value of human health, for example, and then determine what is an acceptable risk?

ANSWER:

In a philosophical sense, it is impossible to place a monetary value on human life and health. Risk is an inherent part of life itself, and all human activities, even those which better the overall human condition, imply some risk for some individuals. The problem for regulators is to balance the risk posed to certain individuals or the society as a whole against the benefits realized by individuals or the society as a whole.

Health scientists and economists have developed a number of techniques for valuing human life and health. Those techniques have not been adequately perfected to be used in a determination of "acceptable" risk. However, I believe that EPA must attempt to move toward a balancing of risks and costs and benefits in its regulations. Although the tools available to analyze this balance are not yet perfect, I believe that they can be used, in conjunction with other approaches, to give us a better understanding of the quality of the regulatory decisions EPA must make.

QUESTION #12:

Do you believe that as written most environmental laws are overprotective of human health and environment?

ANSWER:

I think that our environmental laws are essentially sound in moving our society to protect human health and welfare. I only have to reflect on the tremendous improvement in environmental quality over the past decade.

At the same time, society has only limited resources to invest in regulatory programs including those for environmental protection. Thus, we should structure environmental laws in such a way that we can protect human health and welfare in a way that minimizes the effect of this effort on other social concerns. This entails providing the regulator adequate flexibility to strike the proper balance.

QUESTION #13:

Some areas of the country are having difficulty meeting the deadline for complying with the fluoride standard in drinking water. It is my understanding that the National Drinking Water Advisory Council has recommended relaxing the current standard.

-- What is your position on amending the current standard?

-- If you do intend to change it, when would this take place?

ANSWER:

It is my understanding that EPA has been engaged in an accelerated review of the fluoride standard separate from all of the other revised regulations in response to a petition from the State of South Carolina. The review includes occurrence, treatment technology, costs and health effects. Advice from the Surgeon General is a key element in the health effects determination. The review of the dental effects has been completed and submitted by the Surgeon General. A second review of the toxicology by a panel of medical experts is expected from the Surgeon General in about two months.

EPA would be in a position to make an initial determination shortly after the final report on health risks is received from the Surgeon General. EPA will evaluate all of the data in the light of the directives of the Safe Drinking Water Act and proceed accordingly.

QUESTION #14:

What is the current timetable for proposal of regulations of volatile organic chemicals in drinking water?

ANSWER:

An Advance Notice of Proposed Rulemaking was published in March 1982, and public comments and four public workshops have helped us to complete our analysis. Proposed regulations are in the late stages of preparation and a proposal is expected by late summer.

QUESTION #15:

It has come to our attention that during the last two years the Office of Federal Activities has not required the other federal agencies to adequately consider the environment before undertaking federal projects. What do you intend to do to correct this situation?

ANSWER:

As Administrator, I will faithfully discharge my legal responsibilities. If there is any question of any part of EPA failing to fully perform its duties, I will take steps to correct it. The EPA Inspector General has conducted an audit of the Office of Federal Activities and until I have had a chance to review it in detail I am just not in a position to assess the performance of that Office nor to tell you what, if anything, I would change about its operation.

QUESTION #16:

In a letter to Ernie Minor, Member of the Council on Environmental Quality, sent earlier this year, you argue against the traditional risk regulation mechanisms contained in environmental statutes. You stated, "... the public does not understand how extreme our current statutory framework is..."

-- What extremes are you referring to, and what changes do you believe are necessary?

-- As Administrator, would you seek to revise the carcinogen policy that is currently in effect?

ANSWER:

-- What extremes are you referring to, and what changes do you believe are necessary?

As I have testified before the Committee many times I believe certain of the statutes concerned with protecting human health and the environment, such as the Clean Air Act, require standards that provide an "ample margin of safety" to protect the public health even for pollutants with no known health threshold. This level of protection is to be attained without regard to the costs imposed by the standards. This may result in large expenditures on pollution control but only small improvements in environmental quality or in human health. Specific provisions of statutes, such as the percent removal and PSD provisions in the Clean Air Act, may also impose large costs with little environmental improvement. Regulatory agencies need more flexibility to balance the improvements in human health and the environment against the costs of controlling pollution.

ANSWER:

-- As Administrator, would you seek to revise the carcinogen policy that is currently in effect?

The Administration already is undertaking a review of the scientific basis for the current cancer policy. Within EPA, the Office of Research and Development has also undertaken a review of the scientific literature insofar as it pertains the Agency's policy on carcinogens. Since this is a highly technical area, and the reviews have not yet been completed, it would be premature to seek any changes to the existing policy. Until there is some resolution of the underlying scientific issues, EPA will continue to follow the existing policy on carcinogens in its regulatory decision making.

NAME: LEAHY

QUESTION #1:

Do you have the personal commitment of the President that he supports the full enforcement of our environmental laws?

ANSWER:

Yes, I do. The President is firmly committed to upholding the will of Congress and the laws of the land.

QUESTION #2:

Do you have the personal commitment of the President that his Administration will provide the staff and the funds necessary to enforce these laws, even if it requires increases in the Agency's budget?

ANSWER:

The President is strongly committed to the goals of the Environmental Protection Agency and has assured me that he will seek appropriate levels of funds and staff resources to achieve the Agency's mission, including enforcement activities. President Reagan has asked me to assess the adequacy of the current level of resources and to recommend any changes that I believe are appropriate, even if that means increasing the Agency's budget.

QUESTION #3:

President Reagan has publicly adopted a goal of reducing the Federal work force by 75,000 full-time positions between September 1981 and September 1984. According to the Office of Personnel Management, the Environmental Protection Agency must lower its employment level by several hundred persons. Will the Environmental Protection Agency be exempted from this ceiling during your tenure?

ANSWER:

The Environmental Protection Agency's total personnel levels have been reduced since September 1981 in conjunction with detailed programmatic reviews during the several budget cycles since that time. These reviews, like those of most other Federal agencies, have been made in the general context of the President's goal to reduce Federal employment.

As for the future, I intend to review the resource needs of the Environmental Protection Agency as quickly as possible if I am confirmed. The decisions on future personnel levels will be made on their merits and in conjunction with the Administration.

QUESTION #4:

Since 1981, the staffing levels of the Environmental Protection Agency have decreased from 14,269 to 11,082 in total full-time employees and from 10,645 to 8,973 in permanent full-time employees. Will it be your policy to end this attrition in EPA staff?

ANSWER:

In terms of personnel ceilings, as I indicated in prior answers, I intend to review the resource needs of the Environmental Protection Agency at the earliest possible date. The results of that review will be made known to the Committee as soon as it is completed.

QUESTION #5:

You have advocated the use of non-traditional pollution control mechanisms such as "bubbles" and "tradeoffs." These regulatory reform proposals require more staffing than traditional pollution control methods for their site-specific implementation and enforcement. Can you assure me that you will not institute such new procedures unless both the states and the Federal Government have sufficient resources that you can have a high degree of confidence that no reduction in pollution control will result?

ANSWER:

It is my understanding that these voluntary programs, particularly the "bubble" have been underway--producing more rapid compliance and substantial savings in control costs--for several years. EPA is aware that they may require some extra staff time to review individual proposals, particularly where these replace rules applied to groups of industries without consideration of site-specific control costs. EPA does not believe that enforcement of a "bubble" generally requires more staff resources than other enforcement, since the bubble simply results in a new set of emission limits. EPA is responding to concerns about increased resource needs by streamlining procedures for implementation of emissions trading, where this can be done without jeopardizing environmental goals. Further, permit fees are among the approaches being reviewed by staff developing the Final Emissions Trading Policy.

NAME: LEVIN

QUESTION #1:

Results of recent studies have revealed significant levels of dioxin (2,3,7,8-TCDD) contamination in the Midland, Michigan area. As a result of these findings, it was decided that EPA would develop and seek funding (approximately $12M) for a nationwide dioxin study to include the Midland, Michigan area.

Although recent developments took place prior to your nomination, I hope you share with me a concern for quickly resolving the unanswered questions about dioxin.

I would like to know if, upon your confirmation, you will support funding for the dioxin study and what efforts you will take to ensure its prompt completion.

ANSWER:

The issue of dioxin in the environment is of great concern to me, and I know the people of Michigan and other parts of the country are anxious to know more about it. As you have indicated, the Office of Water has drafted a proposal for a nationwide dioxin study which would investigate five sites, including the Midland, Michigan area. This study would also include a nationwide screening study of fish in the ambient environment. It is a two-year study that would be supported by the Office of Water, with EPA Regional office participation.

Because of the intense public interest and public health implications in this work, one of my first priorities, if confirmed, will be to thoroughly review this study proposal and the recommendations from the Office of Water staff. I will review this proposal in relation to other high priority budget needs of the Agency, and make a decision on how EPA should proceed.

NAME: SENATOR SIMPSON FOR SENATOR WALLOP

QUESTION #1:

What consideration should be given to the economic impacts of environmental regulations?

ANSWER:

When considering regulatory alternatives it is important to understand the many different impacts that the alternatives may have. Economic impacts are one type of impact. There are also others, such as environmental, health and social impacts. In some instances, EPA is allowed to consider economic impacts in the setting of standards and regulations. In these cases we will perform economic impact analyses which are as fair as possible and use them as one factor in the decision-making process. In instances where the economic factors may not be used, we will, of course, not consider them in the decision process. However, we may decide to perform economic impact analyses in order to better understand the overall effects of our decisions.

In my view it is unwise for our country to attempt social regulation (health, safety and the environment) without factoring in the economic impact of our efforts. I believe the Congress should provide explicitly the criteria to be weighed in arriving at a social regulatory decision, one of which should be economic impact.

QUESTION #2:

Various chemicals - herbicides, pesticides - are used in agriculture. Decisions on the use of these chemicals often appear to be more political than scientific. Do you have any views on whether, or how, decisions should be based on scientific evidence or scientifically-acceptable level of use?

ANSWER:

Sound scientific evidence should always be the foundation of any regulatory decision on the use of chemicals. There can be no disagreement about the need for good science. However, no matter how good the science, it will not give the decision-maker clearcut, yes or no answers to the complex decisions which must be made in the regulation of chemicals. Though our knowledge of chemicals is much greater now than it was even ten years ago, there are many scientific questions and uncertainties about the characteristics and effects of chemicals which cannot yet be answered. Moreover, the decision-maker must consider not only what is known about a particular chemical and its potential effects, but he must also try to weigh a whole host of social costs and benefits which attach to the use of that chemical. The significance of these other factors are not simply matters of fact which can be calculated with rulers or scales. The final decision must be a balancing of both tangible facts and intangible social values. It is this balancing of risks and benefits that makes a decision regarding a pesticide political with a small "p." Big "P" politics must have no place in the regulation of chemicals.

QUESTION #3:

In 1972 when you were Administrator of EPA, you approved a ban on the use of a poison, Compound 1080, in the agricultural field to control predators but not on its use to control rodents in urban areas. Last year an EPA Administrative Law Judge, after a number of hearings, recommended to the Administrator that the ban be loosened to a limited extent. The agricultural groups argue that the judge didn't go far enough. The Administrator never ruled so the issue is still pending. In view of your previous involvement, do you have any views now as to how you will deal with this issue if you are confirmed as EPA Administrator?

ANSWER:

I can only say at this time that I would carefully review the record from the Administrative Law Judge and the adjudicatory hearing before coming to a decision on the future use of 1080 in predator control.

QUESTION #4:

In regard to the predacide I previously mentioned, Compound 1080, there was a recent report in the newspapers that someone in EPA following a complaint from an outside, nonscientific group withdrew permission previously given to government scientists to conduct some field tests on the safety and efficacy of this poison. Apparently there was a question about whether the scientists had received prior EPA clearance to conduct certain tests. I don't want to prejudge this matter, but I do urge you to look into this matter if you are confirmed because I think it is important, if we are to separate the facts from the emotion, that EPA not hinder or prevent sound scientific inquiry. Don't you agree?

ANSWER:

I am not familiar with the specific incident you are describing. I would certainly have the appropriate official in the Agency look into the merits of the particular situation, consistent with my personal constraints as the final decision-maker in the 1080 issue. I would certainly share your basic sentiment that EPA take action based on facts and not emotion.

WILLIAM DOYLE RUCKELSHAUS

Born:	Indianapolis, Indiana, July 24, 1932
Education:	B.A. (cum laude), Princeton, 1957 LL.B., Harvard, 1960
Employment:	Attorney, Ruckelshaus, Bobbitt & O'Connor (Indianapolis, 1960-68) Deputy Attorney General, Indiana, 1960-65 Chief Counsel, Office of Attorney General, Indiana, 1963-65 Minority Attorney, Indiana Senate, 1965-67 Member, Indiana House of Representatives, 1967-69; Majority Leader, 1967-69 Assistant Attorney General, Civil Division, Department of Justice, 1969-70 Administrator, EPA, 1970-73 Acting Director, FBI, 1973 Deputy Attorney General of U.S., 1973 Attorney, Ruckelshaus , Beveridge, Fairbanks and Diamond (Washington, 1973-75) Senior Vice President, Weyerhaeuser Company, (Tacoma, Washington; 1975 to Present)
Personal:	Married, 5 children Resides in Medina, Washington
Other:	Chairman, Geotherman Kinetics, Inc. Director, Cummins Engine Co., Inc. Director, Peabody International Corporation Director, Twentieth Century Fund Director, Nordstrom, Inc. Chairman of Board, Urban Institute Republican nominee for State Senate, Indiana, 1968 Outstanding Republican Legislator, Indiana House of Representatives, Working Press, 1967 Outstanding 1st Year Legislator in Indiana House of Representatives, Indiana Broadcasters Assn. Author, Reapportionment-A Continuing Process, 1963

April 25, 1983

Dear Mr. Scott:

This letter will outline the steps I propose to take, upon confirmation as Administrator of the Environmental Protection Agency ("EPA"), with respect to (1) assets and organizational affiliations as reported on my Financial Disclosure Report (the "Report") filed with the Office of Government Ethics in connection with my prospective nomination to that position, and (2) recusal from participation in particular matters as EPA Administrator.

1. Assets and Organizational Affiliations

I will terminate my employment with Weyerhaeuser Company and resign from the Boards of Directors of all companies listed on Schedule A and Schedule D, Attachment 3 ("Compensation in Excess of $5,000 Paid by One Source") of the Report. I will also resign from all positions held, or otherwise terminate my affiliations, with all organizations listed on Schedule D, Attachment 2 ("Positions Held") of the Report, other than the Indiana Academy (a not-for-profit, honorary organization).

I will sell my stock holdings in Cummins Engine Company, Inc., Peabody International Corporation and Pacific Gas Transmission Company, as reported on Schedule A, page 4 of the Report. Also, the options to purchase shares of Weyerhaeuser Company common stock, as reported on Schedule A, page 5, will be exercised and the shares will then be sold.

My stock holdings in United Siscoe Mines, Ltd., as reported on Schedule A, page 4 of the Report, are subject to a Securities Exchange Commission ("SEC") restriction prohibiting their sale prior to July of 1983. On the expiration of that restriction, these shares will be sold.

I have warrants to purchase shares of Peabody International Corporation common stock, as reported on Schedule A, page 5 of the Report. If the warrants were exercised, the shares would be subject to an SEC restriction on sale for a two-year period. This restriction would be eliminated, however, were the shares registered by Peabody. I have been advised that the company would be willing, at the request of the Office of Government Ethics, to register the shares, subject to SEC approval; this would permit me to sell the shares and divest myself of any continuing financial interest in the company. I intend to exercise the warrants and sell the shares as soon as it is legally permissible to do so, pursuant to this proposed arrangement.

I have a deferred compensation arrangement with Weyerhaeuser Company, based entirely on past services to the company, as reported on Schedule D, "Relations with Other Employers," of the Report. The amount of the compensation will be computed as the value of 2,299.221 shares of Weyerhaeuser common stock as at the first trading day of the month following termination of my services for Weyerhaeuser. Under the deferred compensation arrangement, the amount would normally be payable in five annual installments, plus interest, commencing January 1984. I intend, however, to request either an accelerated distribution under the "hardship" provisions of the plan, or that the company's obligations under the plan be transferred to a financial institution or other appropriate entity unrelated to Weyerhaeuser. Either of these steps would be taken at the request of the Office of Government Ethics, to permit me to divest myself of any continuing financial interest in the company that might otherwise arise as a result of this deferred compensation arrangement.

I intend to take the various actions described above as soon as practicable following my confirmation. I have no agreement or understanding of any kind with respect to future employment by or affiliation with any individual or entity.

2. Recusals

During the period in which I retain a "continuing financial interest" in any of the entities described above, I will recuse from participation as EPA Administrator in any particular matter affecting or involving that entity, consistent with the requirements of 18 U.S.C. § 208.

Throughout my service as EPA Administrator, I will also recuse from participation in any particular regulatory or adjudicatory matter (1) in which any of the entities described above is a party-in-interest, and (2) that either (a) was pending before EPA at the time I was affiliated with that entity, or (b) involves a matter with which I was directly and substantially involved while affiliated with that entity.

In addition, there may be other matters before the EPA either now or in the future in which an entity with which I was formerly affiliated (either directly or in a representational capacity) may have an interest. It is my understanding that, if I have no continuing financial interest in these entities, applicable statutes would not require my recusal in matters of this kind; nevertheless, I may decide, on a case-by-case basis, to recuse from participation in certain of these matters to avoid any appearance of impropriety or conflict of interest.

These decisions would depend on such considerations as the nature of the matter itself and the extent and circumstances both of my past affiliation with the entity involved and of that entity's interest in the matter in question.

With respect to all these areas of potential recusal, I will direct that suitable procedures be established at EPA to ensure both that such matters will be identified and that, in instances in which a decision to recuse is made, necessary authorization to act with respect to such matters is properly delegated to the Deputy Administrator or another appropriate officer of EPA.

I believe that by following these proposed steps with respect both to my assets and organizational affiliations and to the matters on which I would recuse from participation as EPA Administrator, I will be in compliance with all applicable statutory requirements involving conflicts of interest. Your concurrence and any comments you may have would be appreciated.

Sincerely,

William D. Ruckelshaus

Mr. David R. Scott
Acting Director
Office of Government Ethics
Office of Personnel Management
Washington, D.C. 20415

ROBERT T. STAFFORD, VT., CHAIRMAN
HOWARD H. BAKER, JR., TENN.
JOHN H. CHAFEE, R.I.
ALAN K. SIMPSON, WYO.
JAMES ABDNOR, S. DAK.
STEVE SYMMS, IDAHO
PETE V. DOMENICI, N. MEX.
DAVE DURENBERGER, MINN.
GORDON HUMPHREY, N.H.
JENNINGS RANDOLPH, W. VA.
LLOYD BENTSEN, TEX.
QUENTIN N. BURDICK, N. DAK.
GARY HART, COLO.
DANIEL PATRICK MOYNIHAN, N.Y.
GEORGE J. MITCHELL, MAINE
MAX BAUCUS, MONT.

BAILEY GUARD, STAFF DIRECTOR
JOHN W. YAGO, JR., MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
WASHINGTON, D.C. 20510

April 21, 1983

Honorable Lee Verstandig
Acting Administrator
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dear Mr. Verstandig:

As per the request of Mr. William D. Ruckelshaus, please find enclosed statements of the information requested by the Committee in connection with his confirmation hearings.

You will find information requested of different organizations listed on separate sheets of paper. The information requested of the Weyerhaeuser Company has already been supplied and copies of those requests are included for your information only.

In addition to the information requested of the Environmental Protection Agency, the Committee would appreciate receiving from the Administration copies of comments filed by the Weyerhaeuser Company or its officers with the task force on regulatory reform chaired by Vice President Bush.

If the Committee or its staff may be of further assistance or guidance, please feel free to call on us.

Sincerely yours,

Jennings Randolph
Jennings Randolph
Ranking Minority Member

Robert T. Stafford
Robert T. Stafford
Chairman

[Note: The information requested in this letter has been furnished and is retained in committee files. Selected responses have been reproduced here.]

William D. Ruckelshaus

1. Please provide a list of all organizations, both public and private, in which you or your wife have the capacity to influence or determine policy. These should include, but not be limited to, organizations of which you are an officer, a board member, or a major shareholder.

2. Please provide a list of all financial interests, whether actual or contingent, held by you or a member of your immediate family which would create an actual or potential conflict of interest should you be confirmed as Administrator of the Environmental Protection Agency.

3. To the extent they are available to you, please provide a copy of all speeches, articles or similar public statements which you have made since the termination of your previous government service.

4. Please provide a detailed analysis showing the amount of legal resources devoted to enforcement, by year, for fiscal years 1980 through 1984. Specify the amount of funding and total work years by medium, program, and budget account.

Office of Personnel Management

FINANCIAL DISCLOSURE REPORT

Form Approved
OMB No. 3209-0092

Page 1

Reporting Status *(Check Appropriate Box)*
☐ Incumbent ☒ New Entrant, Nominee, or Candidate ☐ Termination Report

NOTE
All schedules must be filed. Enter "None" in areas or across schedules where appropriate.

Agency Use Only	OGE Use Only
Date of Filing *(Month, Day, Year)*	

Reporting Individual's Name
Last Name: RUCKELSHAUS
First Name and Middle Initial: WILLIAM DOYLE

Position for Which Filing
Title of Position: Administrator
Department or Agency *(If Applicable)*: Environmental Protection Agency
Date of Appointment, Candidacy, Election or Nomination *(Mo., Day, Yr.)*:
Termination Date *(If Applicable)* *(Month, Day, Year)*:

Location of Present Office
Address *(Number, Street, City, State and Zip Code)*: Weyerhaeuser Company, Tacoma, WA 98477
Room Number: CH 5
Telephone No. *(Include Area Code)*: (206) 924-2219

Presidential Nominees Subject to Senate Confirmation
Name of Congressional Committee Considering Nomination: Senate Committee on Environment and Public Works
Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No

Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)
Title of Position(s) and Date(s) Held: None

Certification
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief
Signature of Reporting Individual:
Date *(Month, Day, Year)*: April 25, 1983

Agency Ethics Official's Opinion
The information contained in this report discloses no conflict of interest under applicable laws and regulations
Signature of Designated Agency Ethics Official/Reviewing Official:
Date *(Month, Day, Year)*:

Office of Government Ethics Use Only ➤
Signature:
Date *(Month, Day, Year)*:

Comments of Reviewing Officials *(If additional space is required, use the reverse side of this sheet)*

(Check box if comments are continued on the reverse side) ☐

Prior Edition of SF 278 Is Usable
278-101
NSN 7540-01-075-8444

RESPONSE TO QUESTION 2

Financial Disclosure Report

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?		X
If "yes", have you reported the income from the trust?		
If "yes", have you reported the assets of the trust?		
If "yes", is this trust an "excepted" trust? ☐ Yes ☐ No or "qualified" trust?		

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?		X
If "Yes," do you certify to all of the following? 1. They represent solely your spouse's or dependent child's financial interest or responsibility; 2. They are not, in any way, past or present, derived from your income, assets, or activities; 3. You neither derive, nor expect to derive, any financial or economic benefit from them; and 4. You do not have knowledge as to the composition of such interest or liabilities		

Page Number ➤ 2

Schedule A

Reporting Individual's Name

William D. Ruckelshaus

Agency Use Only

Date of Filing (Month, Day, Year)

[illegible]	Identification	Income																		Interests in Property						
		Type of Income (✓)							Category of Amount or Value (✓)											Valuation of Assets (✓)						
		Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria		Valuation Method	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	FORT STEILACOOM COMMUNITY COLLEGE 9401 Farwest Drive S.W. Tacoma, WA 98498							Honoraria									$250.00	6/18/82								
	NEW YORK TIMES(Wrote Article for Editorial Page) NY, NY 10036							Honoraria									$150.00	7/15/82								
	WEYERHAEUSER COMPANY Tacoma, WA 98477							Salary and Bonuses									$303,325.63	1982-to 3/18/83								
	CUMMINS ENGINE COMPANY, INC. Columbus, IN. 47201							Directors Fee									$20,000.00	1982								
	PEABODY INTERNATIONAL CORPORATION 4 Landmark Square Stamford, CONN. 06994							Directors Fee									$18,230.35	1982-to 3/18/83								
	NORDSTROM, INC. P. O. Box 870 Seattle, WA 98111							Directors Fee									$4,750.00	1982-to 3/18/83								

SF 278 [illegible] Financial Disclosure Report
(Rev. 6-81)

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?	☐	☐
If "yes", have you reported the income from the trust?	☐	☐
If "yes", have you reported the assets of the trust?	☐	☐
If "yes", is this trust an "excepted" trust? Yes ☐ No ☐ or "qualified" trust?	☐	☐

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?	☐	☐
If "Yes," do you certify to all of the following? 1. They represent solely your spouse's or dependent child's financial interest or responsibility; 2. They are not, in any way, past or present, derived from your income, assets, or activities; 3. You neither derive, nor expect to derive, any financial or economic benefit from them, and 4. You do not have knowledge as to the composition of such interest or liabilities.	☐	☐

Page Number	3	Schedule A
Reporting Individual's Name	William D. Ruckelshaus	
Agency Use Only		
Date of Filing (Month, Day, Year)		

Spouse (S) or Dependent Child (DC)	Identification	Income: Type of Income (✓): Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	Category of Amount or Value (✓): None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount: Only if "Other" Specified	Date (Mo., Day, Yr.): Only if Honoraria	Interests in Property: Valuation of Assets (✓): Valuation Method	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	PACIFIC GAS TRANSMISSION COMPANY 77 Beale Street San Francisco, CA 94106							Directors Fees									$9,350.00	1982 - to 3/18/83							
	WESTERN REGION HOLDING COMPANY 5700 South Quebec St. Englewood, Colorado 80111							Directors Fees									$5,700.00	1982 - to 3/18/83							
S	SEATTLE FIRST NATIONAL BANK P. O. Box 3977 Seattle, WA 98124							Directors Fees									-								
S	LINCOLN NATIONAL CORPORATION 1300 South Clinton Street Ft. Wayne, IN 46801							Directors Fees									-								
S	UNITED STATES COMMISSION ON CIVIL RIGHTS General Services Administration 1500 E. Bannister Rd., Kansas, MO 64131							Commissioner									-								

[illegible] Financial Disclosure Report
[illegible]

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?		
If "yes", have you reported the income from the trust?		
If "yes", have you reported the assets of the trust?		
If "yes", is this trust an "excepted" trust? Yes ☐ No ☐ or "qualified" trust?		

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?		
If "Yes," do you certify to all of the following? 1. They represent solely your spouse's or dependent child's financial interest or responsibility; 2. They are not, in any way, past or present, derived from your income, assets, or activities; 3. You neither derive, nor expect to derive, any financial or economic benefit from them; and 4. You do not have knowledge as to the composition of such interest or liabilities,		

Page Number ➤	3A	Schedule A
Reporting Individual's Name William D. Ruckelshaus		
Agency Use Only		
Date of Filing (Month, Day, Year)		

Spouse (S) or Dependent Child (DC)	Identification	Income																		Interests in Property						
		Type of Income (✓)							Category of Amount or Value (✓)											Valuation of Assets (✓)						
		Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	Valuation Method	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
S	FRED MEYER, INC. 3800 S.E. 22nd Ave. Portland, Oregon 97202							Directors Fees									-								
	INDIANA NATIONAL BANK Indianapolis, Indiana (sale of common stock)				x								x						H		x (at time of sale)				

SF 278 Financial Disclosure Report
[illegible]

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?	☐	☐
If "yes", have you reported the income from the trust?	☐	☐
If "yes", have you reported the assets of the trust?	☐	☐
If "yes", is this trust an "excepted" trust? Yes ☐ No ☐ or "qualified" trust?	☐	☐

Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported? Yes ☐ No ☐

If "Yes," do you certify to all of the following?

1. They represent solely your spouse's or dependent child's financial interest or responsibility,
2. They are not, in any way, past or present, derived from your income, assets, or activities;
3. You neither derive, nor expect to derive, any financial or economic benefit from them, and
4. You do not have knowledge as to the composition of such interest or liabilities. Yes ☐ No ☐

Page Number ➤ 4
Schedule A

Reporting Individual's Name
William D. Ruckelshaus

Agency Use Only
Date of Filing (Month, Day, Year)

Spouse (S) or Dependent Child (DC)	STOCK OWNERSHIP Identification	Income																		Interests in Property						
		Type of Income (✓)							Category of Amount or Value (✓)											Valuation of Assets (✓)						
		Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	Valuation Method	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	Cummins Engine Company, Inc.	X								X									H		X				
	Peabody International Corporation	X							X										H	X					
	Nordstrom, Inc.	X								X									H		X				
	Pacific Gas Transmission Company	X								X									H	X					
	SeaFirst Corporation	X								X									H	X					
S	SeaFirst Corporation	X								X									H		X				
S	Lincoln National Corporation	X							X										H		X				
	United Siscoe Mines, Ltd. ~~(see related debt)~~																		H					X	

Financial Disclosure Report

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?	☐	☐
If "yes", have you reported the income from the trust?	☐	☐
If "yes", have you reported the assets of the trust?	☐	☐
If "yes", is this trust an "excepted" trust? Yes ☐ No ☐ or "qualified" trust?	☐	☐

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?	☐	☐
If "Yes," do you certify to all of the following? 1. They represent solely your spouse's or dependent child's financial interest or responsibility; 2. They are not, in any way, past or present, derived from your income, assets, or activities; 3. You neither derive, nor expect to derive, any financial or economic benefit from them, and 4. You do not have knowledge as to the composition of such interest or liabilities,	☐	☐

Page Number 5

Schedule A

Reporting Individual's Name: William D. Ruckelshaus

Agency Use Only

Date of Filing (Month, Day, Year)

Spouse (S) or Dependent Child (DC)	STOCK OPTIONS/WARRANTS Identification	Income: Type of Income (✓): Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	Category of Amount or Value (✓): None or less than $101	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	Interests in Property: Valuation of Assets (✓): Valuation Method	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	Options to purchase 41,711 shares of WEYERHAEUSER COMPANY common stock at price ranging from 24.0625 to 43.4375 dollars per share. (March 29, 1983 closing price - $38½)																		H					X	
	Warrants to purchase 23,846 shares of PEABODY INTERNATIONAL CORPORATION common stock at price ranging from 1.98171 to 7.00000 dollars per share. (March 24, 1983 closing price - $10 7/8)																		H					X	
	Warrant to purchase 5,000 shares of DATASPEED, INC. common stock at 6.00 dollars per share. (March 29, 1983 closing bid - $12 3/4)																		H			X			

SF 278 - Financial Disclosure Report
(Rev. 6-81)

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust? .... Yes ☐ No ☐

If "yes", have you reported the income from the trust? .... Yes ☐ No ☐

If "yes", have you reported the assets of the trust? .... Yes ☐ No ☐

If "yes", is this trust an "excepted" trust? ... Yes ☐ No ☐ or "qualified" trust? ... Yes ☐ No ☐

Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported? Yes ☐ No ☐

If "Yes," do you certify to all of the following?
1. They represent solely your spouse's or dependent child's financial interest or responsibility;
2. They are not, in any way, past or present, derived from your income, assets, or activities;
3. You neither derive, nor expect to derive, any financial or economic benefit from them; and
4. You do not have knowledge as to the composition of such interest or liabilities. Yes ☐ No ☐

Page Number ➤ 6
Schedule A
Reporting Individual's Name: William D. Ruckelshaus
Agency Use Only
Date of Filing (Month, Day, Year)

		Income																	Interests in Property						
		Type of Income (✓)							Category of Amount or Value (✓)										Valuation of Assets (✓)						
Spouse (S) or Dependent Child (DC)	PARTNERSHIPS Identification	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	Valuation Method	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	TOTEM LAKE ASSOCIATES - 1.9% limited partnership interest in retirement apartment in Kirkland, WA.	X									X								A/F				X		
	EVERGREEN APARTMENT ASSOCIATES - 2% limited partnership interest in group of apartment buildings in the State of Washington. (see related ($39,760.00 debt)	X							X										A/F			X			
	WNC, LTD - 4% limited partnership interest in shopping center in White Hills, North Carolina. (see related $28,800 debt)	X							X										A/F				X		

[illegible] Financial Disclosure Report
(Rev. [illegible])

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?	☐	☐
If "yes", have you reported the income from the trust?	☐	☐
If "yes", have you reported the assets of the trust?	☐	☐
If "yes", is this trust an "excepted" trust? Yes ☐ No ☐ or "qualified" trust?	☐	☐

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?	☐	☐
If "Yes," do you certify to all of the following? 1. They represent solely your spouse's or dependent child's financial interest or responsibility; 2. They are not, in any way, past or present, derived from your income, assets, or activities; 3. You neither derive, nor expect to derive, any financial or economic benefit from them, and 4. You do not have knowledge as to the composition of such interest or liabilities.	☐	☐

Page Number	7	Schedule A
Reporting Individual's Name	William D. Ruckelshaus	
Agency Use Only		
Date of Filing (Month, Day, Year)		

Spouse (S) or Dependent Child (DC)	LIFE INSURANCE Identification	Income: Type of Income (✓) Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	Category of Amount or Value (✓) None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	Interests in Property: Valuation Method	Valuation of Assets (✓) $1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	CONNECTICUT MUTUAL LIFE INSURANCE CO.																								
	Policy #1958768; face value $10,000.00																								
	Policy #2082124; face value $10,000.00																								
	Policy #2304843; face value $10,000.00																								
	INDIANAPOLIS LIFE INSURANCE COMPANY																								
	Policy #0110353; face value $1,000.00																								
	AMERICAN AGENCY LIFE - Annual																		H	X					
	Renewable Term Insurance $350,000.00																								
	WEYERHAEUSER COMPANY - $500,000 lid																								
	(only in force while an active employee of Weyerhaeuser Company)																								

278 Financial Disclosure Report
(Rev. 6/81)

INCOME AND INTERESTS IN PROPERTY

This schedule is applicable in the case of all reporting individuals

	Yes	No
Do you, your spouse, or dependent child receive income from, or have a beneficial interest in a trust?	☐	☐
If "yes", have you reported the income from the trust?	☐	☐
If "yes", have you reported the assets of the trust?	☐	☐
If "yes", is this trust an "excepted" trust? Yes ☐ No ☐ or "qualified" trust?	☐	☐

	Yes	No
Are there any interests in property, purchases, sales, or exchanges, or liabilities of a spouse or dependent child which you have not reported?	☐	☐
If "Yes," do you certify to all of the following? 1. They represent solely your spouse's or dependent child's financial interest or responsibility, 2. They are not, in any way, past or present, derived from your income, assets, or activities; 3. You neither derive, nor expect to derive, any financial or economic benefit from them; and 4. You do not have knowledge as to the composition of such interest or liabilities.	☐	☐

Page Number	8	Schedule A
Reporting Individual's Name	William D. Ruckelshaus	
Agency Use Only		
Date of Filing (Month, Day, Year)		

Spouse (S) or Dependent Child (DC)	OTHER Identification	Income: Type of Income (✓) Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify)	Category of Amount or Value (✓) None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	Interests in Property: Valuation of Assets (✓) Valuation Method	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
DC	PACIFIC FIRST FEDERAL CDs			X							X								F			X*			
DC	FIDELITY HIGH INCOME FUND			X										X					F					X	
	KWINNUM ASSOCIATES common areas, 1000 Evergreen Point Road Medina, WA 98039 (A ¼ undivided interest in real property of approximately two acres adjacent to personal residence)																		B					X	

*Net of borrowing

[illegible] Financial Disclosure Report
[illegible]

PURCHASES, SALES, AND EXCHANGES

This schedule is applicable only in the case of annual and termination reports.

Page Number ➤	9	Schedule **B**
Reporting Individual's Name William D. Ruckelshaus		
Agency Use Only		
Date of Filing *(Month, Day, Year)*		

Report Applicable Transactions, Even if Also Reported on Schedule A

DC	Identification of Property (real and personal)	Type of Transaction			Date *(Month, Day, Year)*		Category of Amount or Value (✓)					
		Purchase	Sale	Exchange	Purchase	Sale or Exchange	$1,001 to $5,000	$5,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	NOT APPLICABLE											

Financial Disclosure Report

GIFTS AND REIMBURSEMENTS

This schedule is applicable only in the case of annual and termination reports.

Page Number	10	Schedule C
Reporting Individual's Name William D. Ruckelshaus		
Agency Use Only		
Date of Filing (Month, Day, Year)		

Travel, Transportation, Food and Entertainment— *List each source totaling $250 or more in value*

Source (Name and Address)	Brief Description	Value
NOT APPLICABLE		

Other Gifts— *List each source totaling $100 or more in value*

Source (Name and Address)	Brief Description	Value
NOT APPLICABLE		

Reimbursements— *List each source totaling $250 or more in value*

Source (Name and Address)	Brief Description	Value
NOT APPLICABLE		

This schedule, except as noted for the third section, is applicable in the case of all reporting individuals.

Reporting Individual's Name	Agency Use Only Date of Filing (Month, Day, Year)	Page Number	Schedule
William D. Ruckelshaus		1- 11	D

ITIES

Name and Address of Creditor	Type of Liability (e.g., promissory note, margin account) Give date, interest rate and, if applicable, term	Category of Amount or Value (✓)				
		$10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
See Attachment 1						

IONS HELD

Name and Address of Organization	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
See Attachment 2				

ATION IN EXCESS OF $5,000 PAID BY ONE SOURCE This section is applicable only in the case of nominees and new entrants.

Source (Name and Address)	Brief Description of Duties
See Attachment 3	

IONS WITH OTHER EMPLOYERS

Description of Terms of Any Agreement or Arrangement	Parties	Date (Mo., Day, Yr.)
WEYERHAEUSER COMPANY - deferred compensation. Deferred 1977 bonus award into phantom stock (2,299.221 shares). Price will be frozen at first trade day of month following termination (i.e., if termination in April, 1983, price will be determined on May 2, 1983). Amount would be payable in five annual installments, plus interest, commencing January 1984. Pursuant to request from the Office of Government Ethics, however, I intend to request either an accelerated distribution under the "hardship" provisions of the plan or that the company's obligations under the plan be transferred to a financial institution or other appropriate entity unrelated to Weyerhaeuser.	Weyerhaeuser Company and William D. Ruckelshaus	Feb. 1978

SCHEDULE D - ATTACHMENT 1

LIABILITIES

This schedule, except as noted for the third section, is applicable in the case of all reporting individuals.

Reporting Individual's Name	Agency Use Only Date of Filing (Month, Day, Year)	Page Number		Schedule D

Name and Address of Creditor	Type of Liability (e.g. promissory note, margin account) Give date, interest rate and, if applicable, term	Category of Amount or Value (✓) $10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
Rainier Bank, Rainier Bank Tower P. O. Box 3966 Seattle, WA 98124	Unsecured Promissory Note dated July 30, 1982 payable on July 30, 1983 at interest at prime, plus ½%.				X	
Rainier Bank, Rainier Bank Tower P. O. Box 3966 Seattle, WA 98124	Unsecured Promissory Note dated March 15, 1983 payable on demand at interest at prime plus ½%.		X			
Geothermal Kinetics, Inc. 301 W. Indian School Road Phoenix, Arizona 85013	Non-recourse Promissory Note in amount of $142,500. Secured by pledge of 25,000 shares of United Siscoe Mines, Ltd.				X	
WNC Realty c/o Dennis Landsberg 767 Fifth Ave. 44th Floor New York, NY 10153	Note payable 1984-1986, secured by partnership interest.		X			
Evergreen Apartment Associates 200 South 333rd Street Federal Way, WA 98003	Note payable 1984-1986, secured by partnership interest.		X			

SCHEDULE D - POSITIONS HELD
ATTACHMENT 2
WILLIAM D. RUCKELSHAUS

FOR PROFIT CORPORATIONS

Name	Position	Date(s)
WEYERHAEUSER COMPANY Tacoma, WA 98477	Senior VP, Law and Corporate Affairs	Aug, 1976 to date
CUMMINS ENGINE CO., INC. Columbus, IN 47201	Director	1974 to date
PEABODY INTERNATIONAL CORP. 4 Landmark Square Stamford, CT 06994	Director	1974 to date
NORDSTROM, INC. P. O. Box 870 Seattle, WA 98111	Director	1978 to date
PACIFIC GAS TRANSMISSION COMPANY 77 Beale St. San Francisco, CA 94106	Director	1981 to Mar. 1983
WESTERN REGION HOLDING COMPANY 5700 South Quebec St. Englewood, CO 80111	Director of Company to be formed on Jan. 1, 1984 under terms of the AT&T divestment	
GEOTHERMAL KINETICS, INC. 301 W. Indian School Road Phoenix, AZ 85013	Chairman of BOD	1975 to date
DATASPEED, INC. 839 Hinckley Road Burlingame, CA 94010	Advisor	1982 to date

dh30/425/a1-1

NON-PROFIT INSTITUTIONS THAT WDR SERVED ON

Name	Position	Date(s)
AFS INTERNATIONAL/INTERCULTURAL PROGRAMS 313 East 43rd Street New York NY 10017	Advisory Council	1979 to date
AMERICAN ENTERPRISE INSTITUTE FOR PUBLIC POLICY RESEARCH 1150 Seventeenth Street NW Washington DC 20036	Advisory Council of Government Regulations	1978 to date
AMERICAN PAPER INSTITUTE 260 Madison Avenue New York NY 10016	Board of Director Substitute for GHW on Exec. Comm.	1977 to date
	Environmental & Health Council Chairman	Jan. 1982 - Jan. 1983
AMERICAN REFUGEE COMMITTEE 2110 Nicollet Avenue Minneapolis MN 55404	Member of National Honorary Committee	1979 to date
BIO-ENERGY COUNCIL Suite 204 1337 Connecticut Avenue NW Washington DC 20036	Director	1977-79
CONSERVATION FOUNDATION 1717 Massachusetts Ave. NW Washington DC 20036	Board of Trustees	March 1974 to date
COUNCIL FOR PUBLIC INTEREST LAW 1250 Connecticut Avenue NW Washington DC 20036	Board Member	Jan. 1975-79
COUNCIL ON FOREIGN RELATIONS, INC. The Harold Pratt House 58 East 68th Street New York NY 10021	Board of Directors	1977 to date
Council on Solar Bio Fuels - See BIO-ENERGY COUNCIL		
THE DIET c/o Jim Ellis 2000 IBM Bldg. Seattle WA 98101	Member	1982 to date

ECONOMIC DEVELOPMENT COUNCIL OF PUGET SOUND 1900 Seattle Tower 1218 Third Avenue Seattle WA 98101	Board of Directors	1977 to date
ENVIRONMENTAL & ENERGY STUDY INSTITUTE no address except: Senator Slade Gorton Congress of the United States Washington DC 20515	Member	Jan. 1983 to date
ENVIRONMENTAL & HEALTH COUNCIL (See American Paper Institute)	Chairman	1982
ENVIRONMENTAL LAW INSTITUTE 1346 Connecticut Avenue NW Washington DC 20036	Board Member	1977-79
ENVIRONMENTAL TASK FORCE Reagan Transition Program	Member	1980
EXPLORERS CLUB 46 East 70th Street New York NY 10021	Member	1978-80
HANDGUN CONTROL, INC. 810 18th Street NW Washington DC 20006	Member of National Committee	1979 to date
HARVARD UNIVERSITY JFK School of Government Cambridge MA 02138	Board of Overseers Member	1977 to date
HARVARD/MONSANTO ADVISORY BOARD c/o Harvard Medical School 25 Shattuck Street Boston MA 02115	Member	1975 to date
INDIANA ACADEMY 11 South Meridian Street Suite 908 Indianapolis IN 46204	Board Member	1973 to date
INFORM 381 Park Avenue South New York NY 10016	Business Advisory Committee	Oct. 1979 to date
MONDAY CLUB c/o Joseph C. Baillargeon Seattle Trust & Savings Bank 804 Second Avenue Seattle WA 98104	Member	1980 to date

NATIONAL BUSINESS COUNCIL FOR ERA 1730 M Street NW Washington DC 20036	Co-Chairman	1980
NATIONAL RESEARCH COUNCIL Committee on Risk & Decision Making 2101 Constitution Avenue Washington DC 20418	Member of the Committee on Risk & Decision Making	1979-82
NATIONAL VICTIMS OF CRIME 715 Eighth Street SE Washington DC 20003	National Advisory Board and Executive Committee	1982 to date
PACIFIC SCIENCE CENTER 200 Second Avenue North Seattle WA 98109	Foundation Associate Board Member	1976 to 1982
PUBLIC AGENDA FOUNDATION 750 Third Avenue New York NY 10017	Policy Review Board	1978 to date
RESOLVE (Center for Environmental Conflict Resolution) 360 Bryant Street Palo Alto CA 94301	Director	1977-81
SEATTLE ART MUSEUM Volunteer Park Seattle WA 98112	Board of Trustees Ways & Means Committee	1977-Oct. 1983 1977-78
SEATTLE CHAMBER OF COMMERCE 215 Columbia Street Seattle WA 98104	Board of Trustees	1977 to 1982
SEATTLE UNIVERSITY Seattle WA 98122	Board of Regents	1977 to date
TWENTIETH CENTURY FUND 41 East 70th Street New York NY 10021	Director Board of Trustees	1976 to date
UNIVERSITY OF PUGET SOUND School of Law 950 Broadway Plaza Tacoma WA 98402	Board of Visitors	1980 to date
UNIVERSITY OF WASHINGTON School of International Studies Seattle WA 98195	Advisory Board of Institute for Environmental Studies	1978-79

dh30/425/a1-4

UNIVERSITY OF WASHINGTON Committee of Graduate School of Public Affairs Seattle WA 98195	Committee of Graduate School of Public Affairs	1977 to date
URBAN INSTITUTE 2100 M Street NW Washington DC 20037	Board of Trustees Vice Chairman Chairman of the Board of Trustees	Sept. 1974 Sept. 1976 March 1977 to date
U.S. BUSINESS COMMISSION ON THE RECONSTRUCTION OF LEBANON	Member	1983
WEYERHAEUSER COMPANY ARCHIVES Tacoma, WA 98477	Board Member	March 1979 to date
WEYERHAEUSER COMPANY FOUNDATION Tacoma, WA 98477	Trustee President	Jan. 20, 1978 Jan. 11, 1979 to date

SCHEDULE D - ATTACHMENT 3
William D. Ruckelshaus

COMPENSATION IN EXCESS OF $5,000 PAID BY ONE SOURCE This section is applicable only in the case of nominees and new entrants.

Source (Name and Address)	Brief Description of Duties
WEYERHAEUSER COMPANY Tacoma, Washington 98477	Senior Vice President, Law and Corporate Affairs
CUMMINS ENGINE COMPANY, INC. Columbus, Indiana 47201	Board of Directors
PEABODY INTERNATIONAL CORPORATION 4 Landmark Square Stamford, Connecticut 06994	Board of Directors
PACIFIC GAS TRANSMISSION COMPANY 77 Beale Street San Francisco, California 94106	Board of Directors
WESTERN REGION HOLDING COMPANY 5700 South Quebec St. Englewood, Colorado 90111	Board of Directors

RESPONSE TO QUESTION 3

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  40 OF  120 BAS/JNL 1974- 9        :    53:    4/WGT   6/LIN
   447-26-93                 CTN/ILS    882106/IDN
Henry S Cole notes Wesley Marx's Apr 3 '74 article describing
furor created by ex-EPA Admr William Ruckelshaus' call for Los
Angeles traffic reduction to meet Clean Air Act's '77 standards
deadline; ironically proposes Natl Environmental Degradation
Act to exclude Los Angeles from 'blight' of environmental
protection; cartoon (L)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  30 OF  120 NYT/JNL 1974- 7- 9     :    29:  1 4/WGT   7/LIN
   190-74-80                            724369/IDN
article on FBI Dir Clarence M Kelley's 1st yr in office says
candor and low profile have characterized his regime; cites
Kelley's unprecedented public admission that FBI was 'stumped'
in its quest for Patricia Hearst and Symbionese Liberation
Army; compares his method of operation with that of former FBI
dir's William D Ruckelshaus and L Patrick Gray; Kelley biog
sketch; por (L)
  31 OF  120 TM /JNL 1974- 7-15     :    35:  1 4/WGT   2/LIN
   448-14- 1                            839591/IDN
Brief biogs of 200 young Amer leaders believed to have made soc
or civic impact; por (continued) (L)
  32 OF  120 NYT/JNL 1974- 7-16     :    47:  2 4/WGT   5/LIN
   197-74-63                            740684/IDN
former EPA Admr William D Ruckelshaus says catalytic converters
being installed in '75-model cars to reduce air pollution will
also help car performance and mileage, speech at dedication of
Engelhard Minerals & Chem Corp auto-catalyst plant, Huntsville,
Ala (S)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  33 OF  120 LAT/JNL 1974- 7-19   2:     5:  4 4/WGT   2/LIN
   447-52-14             EDC/TOM        783774/IDN
William D Ruckelshaus says Amer people must trust decisions of
their leaders for free soc to work
  34 OF  120 LAT/JNL 1974- 7-21     :     1:  1 4/WGT   5/LIN
   447-68-44             INT/TOM PHO/ILS    806767/IDN
Controversy over appropriate sentence for John Ehrlichman,
convicted for his role in break-in at office of Daniel
Ellsberg's psychiatrist, examined; ACLU atty A L Wirin, Atty
Gen William Saxbe, former Dep Atty Gen William Ruckelshaus, and
numerous law profs comment; illus (L)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
Watergate com that Nixon said on March 21, '73, that raising
hush money for Watergate defendants 'would be wrong'; says that
label 'Saturday night massacre' was adopted widely by media to
describe sudden departures from Adm of Watergate prosecutor
Archibald Cox, Atty Gen Richardson and Deputy Atty Gen
Ruckelshaus; says 'Operation Candor' was term coined by
Washington Post when Nixon promised to clear up number of
questions concerning Watergate; notes that CBS titled its
documentary on Middle East alert 'the Mysterious Alert' which
he says clearly implies that something was strange about it
'although numerous points made in the documentary indicated
there is nothing mysterious about the alert' (M)
  11 OF  120 WSJ/JNL 1974- 4- 4    :   25:  1 4/WGT   1/LIN
   445-44-88                           656575/IDN
Cummins Engine elects W D Ruckelshaus dir (S)
  12 OF  120 WSJ/JNL 1974- 4- 5    :   14:  2 4/WGT   2/LIN
   445-49-30                           656676/IDN
Peabody Galion elects former Deputy Atty Gen W D Ruckelshaus
dir (S)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  69 OF  120 WP /JNL 1975-11-24   1:   19:  5 4/WGT   7/LIN
    NO FICHE          EDC/TOM           1095348/IDN
Tom Braden scores Pres Ford's rumored consideration of Robert H
Bork to succeed Sup Ct Justice William O Douglas; notes Bork as
solicitor gen carried out Pres Nixon's orders to fire Watergate
special prosecutor Archibald Cox after Elliot Richardson and
William Ruckelshaus refused to do so; questions whether man who
aided Nixon in avoiding impeachment should be Sup Ct justice
(M)
  70 OF  120 SCI/JNL 1975-12-19    : 1178:  1 4/WGT   4/LIN
    NO FICHE                            1126920/IDN
Inst for Cong, private 'think tank' to provide policy analysis
for Cong, announces incorporation in Washington, DC, Dec 7 '75;
names former Repr Martha W Griffiths chmn and former EPA head
William D Ruckelshaus vice-chmn; board members listed (S)
```

```
* *NEXT=B OR B//$ END=C DEFERRED PRINT: ALL=D SELECTIVE=A//$ * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  50 OF  120 SR /JNL 1974-12-14    :    38:  1 4/WGT   5/LIN
    NO FICHE                  PHO/ILS   1131224/IDN
William Ruckelshaus argues that bitter debate over 'unprovable
projections' prevents rational action to preserve environment;
urges greater attention to what is 'advisable' for man rather
than what is inevitable for world; deplores lack of world
leadership on environmental issues; illus (L)
  51 OF  120 SR /JNL 1975- 2-22    :     7:  1 4/WGT   4/LIN
   457-17-28          LR /TOM            1001754/IDN
Charles F Luce, Con Ed Bd Chmn, lr holds picture of Con Ed NYC
Sherman Creek plant in Williams Ruckelshaus Dec 14 '75 Saturday
Rev article on environment is inappropriate because plant was
closed in '71 as part of Con Ed anti-pollution program (S)
```

```
* *NEXT=B OR B//$ END=C DEFERRED PRINT: ALL=D SELECTIVE=A//$ * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  46 OF  120 NYT/JNL 1974-10-16    :    43:  1 4/WGT  13/LIN
   289-74-91          EDC/TOM            826320/IDN
James Reston article, noting results of recent polls which
shows longing by voters for new faces and wider choices,
questions why it is still so hard to get natl audience for
potential Pres candidates; holds some talented men do not come
forward because they feel they have no chance to win, while
others in fact have no chance because they are not known
outside their region; claims media can do something about this;
lauds Time magazine habit of doing cover stories on new
personalities; suggests television networks consider doing
hour-long 'specials' on Pres possibilities long before
primaries, without concentrating only on the big names; lists
politicians who are considered by some to be qualified for Pres
race, but who need more natl exposure to have fighting chance
  47 OF  120 LAT/JNL 1974-11-14   2:     1:  6 4/WGT   3/LIN
    449-59-77                 PHO/ILS    884414/IDN
S Calif cities move toward hiring William Ruckelshaus, former
EPA head, as their lawyer in battle with Govt over oil drilling
off Calif coast; illus (M)
```

```
* *NEXT=B OR B//$ END=C DEFERRED PRINT: ALL=D SELECTIVE=A//$ * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  53 OF  120 NYT/JNL 1975- 3-19    :    11:  1 4/WGT  16/LIN
    78-75-79                              933182/IDN
2- to 3-yr project designed to turn public interest law from
relatively small if often successful experiment into permanent
part of legal system is announced in Washington, DC, with joint
backing of organized bar and several foundations; project to be
directed by Charles Halpern, would help assure that interests
of various segments of public would be represented in
development of laws and policies that affect them but in whose
development they might otherwise have no choice; project
basically is attempt to design ways to provide financing and
resources for public interest law firms and programs; project
is to be carried out by newly formed orgn, Council for Public
Interest Law, with former Deputy Atty Gen William D Ruckelshaus
and former Asst Atty Gen Mitchell Rogovin as co-chmn; council
to have 13 other members, including US Appeals Ct Judge William
H Hastie, Transportation Sec William T Coleman and reprs of
organized bar and of law schools (M)
```

```
* *NEXT=B OR B//$ END=C DEFERRED PRINT: ALL=D SELECTIVE=A//$ * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  54 OF  120 WP /JNL 1975- 4- 3    :    14:  1 4/WGT   5/LIN
   453-71-69          ED /TOM             954491/IDN
Washington Post ed approves of newly formed Council for Pub
Interest Law intended to find financing from sources other than
foundations for pub interest law orgns; notes council chmn
William Ruckelshaus' call for funding from Fed Govt and bar
assns
  55 OF  120 LAT/JNL 1975- 5-15   4:     1:  2 4/WGT   6/LIN
   459- 3-16          INT/TOM PHO/ILS   1021310/IDN
Charles Halpern, exec dir with William Ruckelshaus of new
Council for Public Interest Law, int; says public interest law
represents people and causes that need legal help and have not
been represented before; cites areas such as environment,
public utilities, mental patients, defective children, women,
minorities, consumers and unethical business practices; por (L)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
 56 OF  120 NYT/JNL 1975- 6- 8   :   51:  2 4/WGT  10/LIN
  159- 3-88                  CMB/ILS    971196/IDN
some Meeteetsee, Wyo, residents are organizing to fight Amax's
proposed construction of open-pit copper mine, fearing that
mine could pollute river and despoil environment; ranchers are
also afraid that town will be forced to bear tax burden of
development with hardly any benefit in return; have hired
former EPA Admr William E Ruckelshaus as their lawyer; some
other residents, numbering 100, have signed petitions
indicating they are not in agreement with ranchers; Amax
project dir James Cooper estimates that mine will produce
20,000 to 30,000 tons of copper a yr; town illus; map (M)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  57 OF  120 NYT/JNL 1975- 7- 6    :   25:  3 4/WGT  12/LIN
   187- 2-65                            985948/IDN
Soc of Plastics Indus Inc has hired former EPA head William D
Ruckelshaus in effort to influence agency in writing regulation
to control cancer-causing chem in polyvinyl chloride; legal
experts agree that widespread practice of former Govt officials
representing clients before their former agencies does not
violate Fed laws or codes of professional ethics; many lawyers
and scientists say such representation does pose serious
problems for any agency trying to develop fair regulations; EPA
Deputy Dir John R Quarles, Natural Resources Defense Council
lawyer Gus Speth and Mark J Green, lawyer long associated with
consumer advocate Ralph Nader, comment; controversy surrounding
cancer-producing agents in vinyl chloride revd (L)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  59 OF  120 NRP/JNL 1975- 7-19    :    5: 1 4/WGT   5/LIN
   459-48-78                           1044255/IDN
New Repub ed scores former EPA head William Ruckelshaus for
acting as atty for Soc of the Plastics Indus, representing mfrs
of polyvinyl chloride, linked to liver cancer deaths among
factory workers; says Ruckelshaus was 1 of few principled men
in Nixon Adm, and his new indus role is 'disillusioning' (S)
  60 OF  120 NYT/JNL 1975- 8- 1    :   26: 5 4/WGT   4/LIN
   213-75-24         LR /TOM            996772/IDN
William D Ruckelshaus lr, in response to July 6 article and
July 18 ed that questioned his 'ethics' in accepting position
as legal counsel to Society of Plastics Indus, defends his
action
  61 OF  120 NYT/JNL 1975- 8- 5    :   30: 5 4/WGT   2/LIN
   217-75-73         LR /TOM            997205/IDN
Greta S Brady lr defends decision of William D Ruckelshaus to
represent Soc of Plastics Indus
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  72 OF  120 NYT/JNL 1975-12-28    :   26: 1 4/WGT  13/LIN
   362-75-98                 PHO/ILS   1068771/IDN
Cong cosponsors proposal to create system that would allow
academicians to give unfettered advice to Sens and Reprs; idea
would be to set up privately funded, nonpartisan group totally
separate from Fed estab that could assemble best minds in US to
offer independent analyses, expert opinions and policy options;
experts would serve short tours of duty to prevent creation of
entrenched bureaucracy and they would be paid by private
foundations; Martha W Griffiths, chmn of bd of trustees of
inst, called Inst for Cong, and William D Ruckelshaus, vice
chmn of inst bd, comment; Ruckelshaus attributes genesis of
inst idea to Cyrus R Vance, Harry C McPherson Jr, Gordon J F
MacDonald, James R Killian and Alton Frye; trustess listed;
illus of Griffiths and Ruckelshaus (M)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  73 OF  120 NYT/JNL 1975-12-29    :    28:  1 6/WGT  23/LIN
   363-75-66                            1068773/IDN
Vice Pres Rockefeller's chief asst Henry L Diamond has been
adviser to Fed comm on water pollution while his law firm
represented number of indus polluters; Diamond denies
improprieties in dual role as partner in firm representing
indus and as consultant advising Govt's Natl Comm on Water
Quality, int; Govt and some indus agree that Diamond's dual
relationship does not violate either Fed conflict of interest
laws or ethical rules of Amer Bar Assn; Natural Resources
Defense Council dir Khristine Hall comments; Diamond's
relationship with Rockefeller reptdly began 2 1/2 yrs ago after
Cong approved legis creating comm for investigating
environmental impact on achieving, or not achieving,
clean-water goals set out in Water Pollution Control law of
'72; Diamond left water pollution comm last Apr and became
partner in Ruckelshaus, Beveridge, Fairbanks & Diamond, law
firm established by William D Ruckelshaus, ex-EPA chief; rept
compiled in July notes law firm represents number of large
indus clients with pollution problems including Soc of Plastics


* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
Indus, Internatl Paper Co, Kaiser Aluminum and Reynolds Metals
Co and number of engineering consultants under investigation by
EPA for possible overcharging of cities on construction of
waste treatment plants built with Fed funds; Diamond denies
devious action (M)
  74 OF  120 USN/JNL 1976- 1-19    :    52:  1 4/WGT  12/LIN
    NO FICHE        ANL/TOM PHO/ILS     1121290/IDN
Analysis of EPA achievements in last 5 yrs highlights that pub
demand for environmental controls is lessening in face of
demand for such natl priorities as jobs; substantial EPA
success noted in lake, stream and municipal water cleanups, 85%
reduction of auto exhaust carbon monoxide and hydrocarbons,
recycling of wastes, reductions of air soot and dust; EPA
points to 1,000,000 jobs gained in environment cleanups as
against 16,000 loss in indus because of controls;
environmentalists now aim to protect existing laws from being
weakened by Congr amendments, pass comprehensive land-use bill,
and ban cancer-causing substances; EPA Admr Russell E Train and
predecessor William Ruckelshaus quoted; illus (L)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  75 OF  120 NYT/JNL 1976- 1-20    :   10:  1 4/WGT  19/LIN
    20-76-72                          1083534/IDN
article on prominent Amers who represent interests of
foreigners in light of disclosure that Mrs Marion Javits is
receiving $67,500 to promote Iran Natl Airlines; persons
discussed include William D Ruckelshaus, Charles E Goodell,
William P Rogers, John B Connally, Richard G Kleindienst, Clark
M Clifford, J William Fulbright, John J McCloy and Kermit
Roosevelt; Rogers's firm represernts Shah of Iran's Pahlevi
Foundation; Connally is member of law firm in Houston that has
represented First Arabian Corp; Kleindienst has on file at
Justice Dept as a $120,000 contract with Algeria's Min of Indus
and Energy; Clifford is sr partner in Clifford Warnke Glass
McIlwain & Finney, firm recorded as having had contract for
services to Algerian Govt at fee of $150,000 a yr; Fulbright is
associated with firm, Hogan & Hartson, which represents
interests of Japan and United Arab Emirates; McCloy's firm in
'74 represented legal inerests of score of businesses in 10
foreign countries; Roosevelt is associated with a business
consulting firm which has represented Portuguese and Arab


* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
interests (M)
  76 OF  120 SCI/JNL 1976- 1-30    :  361:  1 4/WGT   5/LIN
    NO FICHE          INT/TOM PHO/ILS    1127572/IDN
William D Ruckelshaus, former EPA chief, int; defends his
formation of law firm that represents controversial clients,
including Soc of the Plastics Indus, before EPA; notes he also
helped set up public interest orgn, Council for Public Interest
Law; por (M)
  77 OF  120 NYT/JNL 1976- 2- 1   4:    2:  3 4/WGT   5/LIN
    32- 3-36                          1087908/IDN
Marion Javits's decision to quit her $67,500 consultancy to
Iranian public relations account because of 'appearance of
possible conflict' of interest with interests of her husband,
Sen J K Javits, revd; some former govt officials, or their
firms, representing foreign interests in US noted (S)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  78 OF  120 NYT/JNL 1976- 2- 3    :   47:  4 4/WGT  10/LIN
    34-76-23                           1090137/IDN
Council for Public Interest Law, orgn of influential lawyers
headed by former Deputy Atty Gen William D Ruckelshaus and
former Asst Atty Gen Mitchell Rogovin, announces plans to mount
effort to get IRS to change its regulations restricting public
interest firms in effort to increase sources of permanent
funding for public interest law; IRS regulations currently
prevent public interest firms from accepting fees from clients,
even when clients want to make a contribution; if firms accept
fees, they lose their tax-exempt status; council exec dir
Charles R Halpern comments (M)
  79 OF  120 WP /JNL 1976- 4-27    :   28:  1 4/WGT   4/LIN
    NO FICHE                           1156107/IDN
Former Deputy Atty Gen William D Ruckelshaus will leave
Ruckelshaus, Beveridge, Fairbanks and Diamond law firm to take
exec position in Weyerhaeuser Co, lumber firm in Tacoma (Wash)
(S)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  80 OF  120 NYT/JNL 1976- 5-10    :    55:  1 4/WGT  20/LIN
   130-76-19                            1154450/IDN
article on conflict-of-interest law and Justice Dept's record
in prosecuting alleged violators; HR Commerce Subcom on
Oversight and Investigations found in study that 32 of 83 comrs
and top officials who left their agencies in last 15 yrs 'have
at some time during the immediate subsequent 5 yrs been
employed in the regulated indus'; Cong, because of belief that
too stringent a conflict-of-interest law would deter qualified
persons from entering govt, has written statute and ABA has
developed code of ethics whose provisions mean that many of
moves from public to private life do not violate existing
standards; among former Fed officials who have switched to jobs
in private indus are: William D Ruckelshaus, Dean Burch,
William O Doub, Mortimer Caplin and G Richard Dunnells; case of
ex-HUD Dept official Dunnells discussed; ex-FPC chmn Lee C
White is one of few former top officials who chose to remain in
Washington after leaving govt and who is not using his special
skills and contacts; recent study by Prof Victor H Kramer found
that more than 1/2 of officials apptd to 9 Fed regulatory
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
agencies in last 5 yrs came to it from indus they were to
regulate (L)
  81 OF  120 WP /JNL 1976- 5-13   3:    1:  1 4/WGT  12/LIN
    NO FICHE                            1153420/IDN
Attys for US Transportation Dept, France and Great Britain meet
with Fairfax County, Va, Atty Frederic Lee Ruck to discuss
noise ordinance passed by Fairfax County Bd of Supervisors that
would effectively ban Concorde airplane from Fairfax County;
Brit Airways and Air France plan to begin Concorde flights to
Dulles Internatl Airport, part of which is located in Fairfax
County, May 24,'76; attys reptdly were attempting to develop
means of testing ordinance's legality without creating
'international incident'; all parties hold no agreements were
reached; lawyers present were John Hart Ely for Transportation
Dept, Charles Goodell for France and William Ruckelshaus for
Great Britain (M)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  85 OF  120 NYT/JNL 1976- 6-20   4:    5:  1 4/WGT  23/LIN
    171- 3-52                   DGM/ILS   1171396/IDN
conflict-of-interest questions raised by interchange of execs
between regulated indus and regulatory agencies discussed;
instances in last yr that raise question include: Common Cause
rept noting that while MIT Prof Norman C Rasmussen was
preparing rept for Nuclear Regulatory Comm, in which he
concluded that nuclear reactor accident was highly unlikely,
Rasmussen was consultant to 5 commercial cos in nuclear field,
3 of which were licensed by comm; William D Ruckelshaus, first
head of Environmental Protection Agency, set up law firm, took
on plastics indus as client and represented indus views to
agency; Ford Adm nomination of J Ralph Stone to be chmn of
HLBB, and Stone's refusal to dispose of $2.5-million worth of
savings and loan stock whose value could be affected by his
decisions as bank regulator; Sen-passed legis that would
prohibit ex-comrs from practicing before their comms for 2 yrs
after leaving Govt is being protested by some who claim law
would discourage recruitment of qualified personnel; in
addition, HR is considering bill that would prevent former
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
comrs from being employed by regulated co in any capacity;
decisions that result from 2 pending cases may clarify some
features of exisiting law, which has not been aggressively
enforced by Justice Dept, partly because of its complexity;
drawing (M)
  86 OF  120 WP /JNL 1976- 7-15    :    9:  5 4/WGT   7/LIN
    NO FICHE         EDC/TOM          1176717/IDN
Jack Anderson and Les Whitten note Ronald Reagan campaign
staff's choices for vp if Reagan wins Repub Pres nomination;
choices include Amb to GB Anne Armstrong, Treasury Sec William
Simon, William Ruckelshaus and Sens Howard Baker, William Brock
and Mark Hatfield; in unrelated matter, note Sen Commerce Com
and Govt Operations Com have begun study on how to make Fed
agencies more efficient (DC Section)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  87 OF  120 NYT/JNL 1976- 7-29    :     1:  1 6/WGT   18/LIN
   210-76-32                    PHO/ILS   1182855/IDN
```

Clarke Reed, chmn of Miss delegation to Repub Natl Conv, endorses Pres Ford candidacy, July 28 statement issued at Miss Repub hq, Jackson; links endorsement to Ronald Reagan's designation of liberal Sen Richard S Schweiker as his running mate; sees contest now over; says Ford reassured him he would choose running mate 'personally and philosophically compatible with himself and mainstream of Repub Party'; says he has not asked other members of delegation to follow his suit, though delegation has unit rule; William D Ruckelshaus says July 28 that Reagan aide John P Sears contacted him about becoming Reagan's running mate about 3 wks ago; Utah delegation chmn Richard Richards says 20 Reagan delegates 'are now pacified' after hearing about Schweicker's apptmt; Schweiker says he has persuaded at least 20 Penna deleates to abandon Ford, July 29 press conf; NY Times poll of Penna delegation turns up only 1 Reagan convert; reaction in other states to Schweiker apptmt detailed; Sen Hugh Scott and Repr John J Rhodes illus after meeting with Pres Ford July 28; Reed and Scott illus (L)

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  88 OF  120 NYT/JNL 1976- 8-11    :    14:  1 4/WGT   11/LIN
   223-76-53                              1191680/IDN
```

White House officials say Pres Ford will consult with Ronald Reagan and other Repub opponents before making final selection of running mate; contend consultation, meant to foster harmony, is central reason for Ford's refusal to designate prospective running mate, as Reagan has done, before Repub Natl Conv; Ford aide identifies 7 leading Repub Vice Pres prospects as Sens Howard H Baker Jr, Pete V Domenici and Robert Dole, Govs Robert Ray, Christopher S Bond and Daniel J Evans and former Deputy Atty Gen William D Ruckelshaus; former Tex Gov John Connally seen being offered chairmanship of reorganized Ford campaign orgn after conv instead of Vice Pres (M)

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
 101 OF  120 WSJ/JNL 1977- 1- 6    :    9:  4 4/WGT  15/LIN
    NO FICHE                        1284561/IDN
```

Harvard Univ and Monsanto Co jointly choose 5 member com to act as public interest monitor for ongoing cancer research funded by Monsanto with $23 million, 12-yr grant; unprecedented monitor-advisory com said to 'ensure that university researchers are free to publish findings, and that commercialization by Monsanto of products derived from the research is done in a manner consistent with the public interest' according to Monsanto; research said to involve study of strange chem produced by cancer cells called 'tumor angiogenesis factor' (TAF) which seems to induce new vessels that then supply blood to cancerous cells; Monsanto does not comment on what product possibilities may be inherent in research; Dr Judah Folkman heads research team; monitor com includes: Paul J Flory, Frank Stanton, Alton Meister, Maxwell M Wintrobe, William D Ruckelshaus Jr (M)

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
 103 OF  120 HBR/JNL 1977- 3       :  131:  1 4/WGT  21/LIN
    NO FICHE               DGM/ILS   1387786/IDN
```

Harvard Business School Prof Joseph L Bower delineates differences between public and corp mgt; notes that mktplace provides profit as good measure for effectiveness of corp mgt, but that public orgns do not serve mkts or earn profits; suggests that public orgns tend to be judged according to how they carry out their purpose but notes purpose of public orgns is sometimes hard to define; cites facts that: public mgrs pursue goals set by orgns other than their own, operate within structures dictated by legis, work with people whose careers are to some extent outside mgt's control and must accomplish goals in less time than is allowed corp mgrs, as fundamental distinctions between public and corp mgt; also notes that rewards for public mgrs tend to be more intangible than for corp mgrs since profits are not earned; observes that public mgrs can be dissuaded from slow careful planning by press coverage which seeks more sensational stories; cites views of former EPA Admr William Ruckelshaus and former NYC Health Service Adm Admr Gordon Chase on distinctions between public

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
 105 OF  120 FTN/JNL 1977- 4       :   74:  1 4/WGT  31/LIN
    NO FICHE        STT/TOM PHO/ILS    1347675/IDN
Profile of Weyerhaeuser Co examines co's land and timber
holdings, response to environmentalist critics and
reforestation program; Weyerhaeuser's timber holdings are worth
about $5 billion and are the largest in volume and value of any
co in world; Weyerhaeuser owns 6 million acres of timberland in
US and has harvesting rights on 11 million acres in Canada,
Borneo and Philippines; faces strong opposition from
enviromental groups because of highly visible toxic waste, air
pollution and deforestation inherent in lumber business; co
pres George H Weyerhaeuser has built a formidable lobbying and
public affairs dept that heads off potential environmentalist
critics by dealing with potential issues early; has hired
former EPA Admr William D Ruckelshhaus, who previously headed
law firm specializing in environmental problems, as senior vp;
Ruckelshaus holds EPA discharge standards for lumber mills are
too strict; co counters criticism of its land-clearing with
program of converting cleared land into farmlands of smaller
trees; Weyerhaeuser owns about 1% of US commercial forest base,
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
  96 OF  120 NYT/JNL 1976- 8-23    :   40:  1 6/WGT  22/LIN
   235-76-46                PHO/ILS    1196788/IDN
ex-EPA head William D Ruckelshaus and his law firm assocs made
178 contacts with EPA for 20 different clients in the 2 yrs
following his departure from agency in '73; revelation,
discovered by exam of Govt files made available to NY Times
under Freedom of Information Act, raises anew question of what
changes are required in long-estab laws and rules guiding
former Govt officials in their relationships with agencies they
previously were associated with; Ruckelshaus's law firm had as
partners many former EPA officials, and as clients many firms
or orgns with problems with EPA; Albert J Beveridge 3d, who
became sr partner of law firm when Ruckelshaus left to become
sr vp of Weyerhaeuser Co, claims activities of Ruckelshaus and
other partners were 'legal, ethical'; examination of Govt
records shows most active partner, with 90 of 178 contacts with
EPA, was Gary H Baise, who served as Ruckelshaus's right-hand
man at EPA; shows 37 inquiries were made on behalf of Society
of Plastics Indus, and involved air pollution controls agency
wanted to impose to protect public from polyvinyl chloride,
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
 106 OF  120 NYT/JNL 1977- 5-10    :     1:  5 4/WGT  17/LIN
   130-77- 8                  PHO/ILS   1315188/IDN
```

Large lobbying, legal and public relations effort is being conducted by French and British interests to allow Concorde to land in US; former NY Sen Charles E Goodell, former NYC Deputy Mayor Richard R Aurelio and law firms of former Sec of State William Rogers and former EPA Adm William Ruckelshaus are actively involved in effort, costing approx $4 million; lobby credits itself with gaining Ford Adm approval to conduct trial landings in US, and holds Port Authority of NY and NJ's refusal to allow NY landings is only major setback; other problems center on disagreement between French and British advisors regarding legal strategy, but Goodell notes that all 8 lawsuits concerning Concorde were victories for pro-Concorde group; several less familiar public relations men who are involved in work named; details of '75 Justice Dept suit against 3 of most important orgns working for French, DGA Internatl, Internatl Public Relations and Edelman Internatl; photo of Concorde en route to Logan Internatl Airport (L)

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
 109 OF  120 NJL/JNL 1978- 2- 4    :   172:     4/WGT  18/LIN
   NO FICHE                   CMB/ILS   1449896/IDN
```

Spate of new law firms in Washington (DC) detailed; out-of-town firms report having Washington office is essential to deal with increase in government regulatory activity; Van Ness Feldman & Sutcliffe and Blum Parker & Nash were formed by former Capitol Hill aides; both formed within past 2 years are active in energy-related areas; Lobel Novins & Lamont was formed in '72 as public interest firm; Steven B Epstein formed Epstein & Becker to specialize in health care; Beveridge Fairbanks and Diamond, founded by William Ruckelshaus, Albert Beveridge and Richard Fairbanks, specializes in environmental matters; Colby Miller & Hanes, with former CIA director William Colby, specializes in international, energy and environmental matters; Rogovin Stern & Huge was formed in '76 and specializes in trial work; Yablonski Both & Edelman specializes in labor law but seeks to diversify; Stein Halpert & Miller handles both trial and corporate work; Lane & Edson PC and Brownstein Zeidman Schomer & Chase specialize in part in housing matters; list of largest law firms in US; photos (L)

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
 115 OF  120 NYT/JNL 1981- 4-10    :    10:  1 4/WGT   8/LIN
   100-81-66                             1980775/IDN
National Clean Air Coalition calls for leaving Clean Air Act of
'70 basically intact, with exception of adding provisions to
control acid rain and toxic air pollution; position sharply
contrasts with that of major business interests, which seek to
make act less costly and burdensome, and differs in key
respects with views of EPA acting administrator Walter Barber
Jr; is supported by former EPA administrators Douglas Costle,
Russell Train and William Ruckelshaus (M)
 116 OF  120 WP /JNL 1981- 9-20   3:    8:  3 4/WGT   7/LIN
    NO FICHE         EDC/TOM            2047988/IDN
Nick Thimmesch comments on adverse effect high interest rates
are having on young families that want to buy their first
homes; notes Weyerhaeuser Co senior vice pres William D
Ruckelshaus claims interest rates will not decline until
Federal Government convinces business that it will balance
Federal budget; maintains Reagan Administration should reduce
Federal defense spending to help balance Federal budget (M)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
 117 OF  120 NYT/JNL 1982- 6-18   1:   31:  1 4/WGT   9/LIN
    NO FICHE         EDC/TOM            2166443/IDN
Former Deputy Atty Gen William D Ruckelshaus commentary marks
10th anniversary of Watergate break-in by examining its
disruption of US domestic and foreign policy; notes that for
two years US was almost totally focused on Richard Nixon's
struggle to survive, while Nixon himself put all other issues
on back burner; believes this hiatus in addressing serious
problems such as economy, energy crisis, environment and int
ernational relations is Watergate's most lasting damage to
country (M)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
 112 OF  120 ST /JNL 1980- 1- 7   4:    10:  3 4/WGT   6/LIN
    NO FICHE                          1770781/IDN
Puget Sound Economic Development Council (EDC) announces plans
to develop economic early warning system to anticipate major
economic changes in region; Weyerhaeuser Co senior vice pres
William D Ruckelshaus heads new EDC committee that will attempt
to identify historic sources of economic change and their
impacts on community (S)
 113 OF  120 AC /JNL 1980-10-24    :    1:  1 4/WGT   4/LIN
    NO FICHE                CMB/ILS   1905232/IDN
Profile of US timber and logging industry examines shift from
Northwestern states to Southeast; chart compares labor and
transportation costs in Washington State and Georgia; photo of
William Ruckelshaus of Weyerhaeuser (M)
 114 OF  120 NJL/JNL 1981- 1- 3    :    19:  2 4/WGT   4/LIN
    NO FICHE                PHO/ILS   1989362/IDN
Members of Ronald Reagan's 14-member advisory body on
environment and members of EPA transition team listed; photo of
EPA transition team and Heritage Foundation member Louis J
Cordia (S)
```

```
* *NEXT=B OR B//# END=C DEFERRED PRINT: ALL=D SELECTIVE=A//# * *
(C)NYTIMES.SEE ABSTRACT FOR YEAR.NONTIMES MATERIAL BY PERMISSION
 118 OF  120 WP /JNL 1982-11- 2   1:    1:  1 4/WGT   8/LIN
    NO FICHE           SVY/TOM MAP/ILS   2233417/IDN
Eighth and last in series American Today during Congressional
elections examines voters' feelings concerning economy; states
public desires Pres Reagan to add balance to his economic
policies; relates little public support exists for Reagan's
huge increases in defense spending; believes middle class has
been most effected by current recession; cites views of former
deputy atty gen William D Ruckelshaus concerning Reagan's
policies; map (L)
 119 OF  120 NYT/JNL 1983- 2-26   1:    B:  2 4/WGT   6/LIN
    NO FICHE                          2282969/IDN
Repr James J Florio, chmn of 1 of several House subcommittees
investigating charges of wrongdoing at Environmental Protection
Agency, says he will urge Pres Reagan to dismiss EPA head Anne
M Burford and urge him to consider appointing William D
Ruckelshaus or Russell E Train, both former EPA administrators,
in order to restore public confidence in agency (S)
```

Environmental Protection Agency

1. Please provide a list and, where appropriate a copy, of all proposed rules, regulations, advanced notices of proposed rulemaking, guidance documents or any other pending matter of policy on which the Weyerhaeuser Company, its subsidiaries, operating divisions or other entities within the company's control have filed comments or otherwise sought to influence the determinations, whether directly or indirectly.

2. Please provide a list and copy of all enforcement actions pending which involve the Weyerhaeuser Company, its subsidiaries, operating divisions or other entities within its control as well as those involving its officers, directors or agents. These should include, but not be limited to, administrative orders, civil or criminal lawsuits, and negotiations or discussions which may result in orders or suits under any of the laws implemented or administered by the Environmental Protection Agency or, through delegation or assumption, by a State. Provide similar information with regard to each organization which Mr. Ruckelshaus lists in response to the first question submitted to him.

3. Please provide a list and copy of all Congressional testimony delivered by William D. Ruckelshaus during his tenure as Administrator of the Environmetnal Protection Agency.

RESPONSE TO QUESTION 3

EPA CONGRESSIONAL HEARINGS WHERE WILLIAM D. RUCKELSHAUS TESTIFIED

DECEMBER 1, 1970 - DECEMBER 31, 1973

DATE	COMMITTEE	SUBJECT
12/1/70	SENATE Committee on Public Works	Confirmation Hearing
2/4/71	SENATE Committee on Public Works. Subcommittee on Air and Water Pollution.	Briefing on President's Environmental Program
2/9/71*	SENATE Committee on Public Works. (No prepared statement)	Review of Operations of Federal Water Pollution Control Programs
3/1/71	HOUSE Committee on Appropriations. Subcommittee on Appropriations.	Supplemental Appropriations, FY 1971, for SST
3/15/71	SENATE Committee on Public Works. Subcommittee on Air and Water Pollution.	Water Pollution Control Bills
3/25/71	HOUSE Committee on Agriculture.	H.R. 4152, "Federal Environmental Pesticide Control Act of 1971" (supplement to testimony given February 22, 1971)
3/24/71	SENATE Committee on Agriculture and Forestry. Subcommittee on Agricultural Research and General Legislation.	Pesticides
4/7/71	HOUSE Committee on Merchant Marine and Fisheries. Subcommittee on Fisheries and Wildlife Conservation. Subcommittee on Oceanography.	Ocean Dumping
4/28/71	SENATE Committee on Commerce. Subcommittee on Oceans and Atmosphere.	Ocean Dumping

Page 2
CONGRESSIONAL HEARINGS WHERE WILLIAM D. RUCKELSHAUS TESTIFIED

DATE	COMMITTEE	SUBJECT
5/6/71*	HOUSE Committee on Agriculture. (Not Available in Agency files, Will be supplied.)	Refuse Act (Executive Session)
5/25/71	HOUSE Committee on Agriculture.	Refuse Act as applied to agriculture
5/26/71	HOUSE Committee on Interstate and Foreign Commerce. Subcommittee on Public Health and the Environment.	Safe Drinking Water
6/3/83	SENATE Committee on Appropriations. Subcommittee on Agriculture, Environmental and Consumer Protection.	EPA Budget/Activities
6/2/71	SENATE Committee on Appropriations. Subcommittee on Agricultural and Environmental Agencies.	Golden and bald eagle deaths in Wyoming; pesticides
6/23/71	JOINT Atomic Energy. Subcommittee on Legislation.	Thermal pollution of water; power plant siting; energy policy
6/30/71	SENATE Committee on Commerce. Subcommittee on Environment.	Noise Control
7/13/71 7/14/71	HOUSE Committee on Public Works.	Water Pollution Control Legislation (Financing)
7/15/71	HOUSE Committee on Public Works.	Water Pollution Control Legislation (State Programs)
7/20/71	HOUSE Committee on Public Works.	Water Pollution Control Legislation (Enforcement)

CONGRESSIONAL HEARINGS WHERE WILLIAM D. RUCKELSHAUS TESTIFIED

DATE	COMMITTEE	SUBJECT
9/3/71	AMERICAN Chemical Society, Wash., DC	Modern Chemistry and the Environment
10/1/71	SENATE Committee on Commerce. Subcommittee on the Environment.	Toxic Substances; laundry detergents
10/29/71	HOUSE Committee on Government Operations. Subcommittee on Conservation and Natural Resources.	Phosphorus; eutrophication
12/7/71	HOUSE Committee on Public Works.	Water Pollution Control
1/28/72	HOUSE Committee on Interstate and Foreign Commerce.	Clean Air Act (oversight)
2/16/72 2/17/72	SENATE Committee on Public Works. Subcommittee on Air and Water Pollution.	Clean Air Act (oversight)
3/9/72	SENATE Committee on Interior and Insular Affairs. Subcommittee on Public Lands.	NEPA Amendments
3/16/72	JOINT Atomic Energy.	Proposed amendments to Atomic Energy Act
3/27/83	SENATE Committee on Agriculture. Subcommittee on Agriculture, Environmental and Consumer Protection.	EPA Budget, FY-83
5/9/72	HOUSE Committee on Appropriations. Subcommittee on Agriculture, Environmental and Consumer Protection.	EPA Budget Appropriations

CONGRESSIONAL HEARINGS WHERE WILLIAM D. RUCKELSHAUS TESTIFIED

DATE	COMMITTEE	SUBJECT
4/7/72	SENATE Committee on Commerce. Subcommittee on the Environment.	Urban Environment (Task Force Report)
5/22/72	SENATE Committee on Public Works. Subcommittee on Air and Water Pollution.	Clean Air Act (oversight)
2/6/73	SENATE Committee on Judiciary. Subcommittee on Separation of Powers. SENATE Committee on Government Operations.	Allocation of less than maximum funding under Federal Water Pollution Control Act
2/15/73*	SENATE Committee on Public Works. Subcommittee on Roads. (Not available in Agency files, will be supplied.)	Highway Trust Fund
2/28/83	HOUSE Committee on Interstate and Foreign Commerce. Subcommittee on Public Health and the Environment.	Clean Air Act, extension
3/22/73	HOUSE Committee on Public Works.	Highway Trust Fund
4/16/73	HOUSE Committee on Public Works. Subcommittee on Air and Water Pollution.	Clean Air Act; 1975 auto emission standards extension; (HC and CO)
4/17/73	SENATE Committee on Public Works. Subcommittee on Air and Water Pollution.	Clean Air Act; 1975 auto emission standards extension; (NO_x)

Note: This was Mr. Ruckelshaus' last testimony for EPA.

Total Appearances 37

Prepared: April 27, 1983 (Committee's Request)
Office of Legislation, A-102

Weyerhaeuser Company

1. Please provide a copy of all comments filed by the Weyerhaeuser Company, its subsidiary companies or operating divisions, and other companies over which the Weyerhaeuser Company exercises control, on proposed rules, regulations or other policy statements or guidelines of the Environmental Protection Agency.

2. Please provide copies of all statements of policy signed or otherwise issued or approved by William D. Ruckelshaus regarding proposed environmental policies or changes, both regulatory and legislative.

WEYER ENVIRON COMMUNICATIONS

SUBJECT	BILL NO/LAW	TO WHOM?	FROM WHOM?	DATE	HOW PRESENTED
2,4,5-T REGISTRATION	FIFRA	B. MERKLE	W. RUCKELSHAUS	78/05/23	WRITTEN
2,4,5-T SUSPENSION	FIFRA	A. GRANT, AMER FARM BUREAU FED	W. RUCKELSHAUS	79/04/26	WRITTEN
		JOHN HERNANDEZ, EPA	D. E. RUSH	82/10/12	WRITTEN
404 REGULATIONS	CLEAN WATER ACT	COMMENTS TO COE	DAVE NICHOLSON	80/12/08	WRITTEN
		COMMENTS TO EPA	DAVE NICHOLSON	80/11/06	WRITTEN
AERIAL PESTICIDE APPLICATION	CLEAN AIR ACT	COMMENTS TO EPA	DAVE NICHOLSON	80/04/14	WRITTEN
BAT EFFLUENT GUIDELINES	CLEAN WATER ACT	SEN. ED MUSKIE	W. RUCKELSHAUS	77/07/06	WRITTEN/ORAL
BAT/NSPS EFFLUENT GUIDELINES	CLEAN WATER ACT	COMMENTS TO EPA	KEN KARCH	81/06/05	WRITTEN
BCT GUIDELINES	CLEAN WATER ACT	COMMENTS TO EPA	KEN KARCH	82/12/22	WRITTEN
BIG GAME DEER REPELLENT		VICE ADM. THOMAS STOKES	W. RUCKELSHAUS	77/12/29	WRITTEN
		F. FISHER, SANTA ROSA VINEYARDS	W. RUCKELSHAUS	77/12/07	WRITTEN
CLEAN AIR ACT AMENDMENTS	CLEAN AIR ACT	REP. RICHARD SHELBY	W. RUCKELSHAUS	82/02/04	WRITTEN
		REP. AL SWIFT	W. RUCKELSHAUS	81/10/16	WRITTEN
		ANN GORSUCH, EPA	W. RUCKELSHAUS	81/09/03	WRITTEN
		V. PRES. GEORGE BUSH	W. RUCKELSHAUS	81/06/18	WRITTEN
		ANN GORSUCH, EPA	W. RUCKELSHAUS	81/04/15	WRITTEN
		RUCKELSHAUS PERSONAL TESTIMONY	W. RUCKLESHAUS	81/04/09	WRITTEN/ORAL
		SPEECH TO ASPEN CONFERENCE	W. RUCKELSHAUS	80/05/21	WRITTEN/ORAL
		REP. RON WYDEN	W. RUCKELSHAUS	82/03/02	WRITTEN
		REP. RON WYDEN	KEN KARCH	81/09/29	WRITTEN/ORAL
		REP. JAMES COLLINS	FRED ROACH	82/01/26	WRITTEN
CLEAN WATER ACT AMENDMENTS	CLEAN WATER ACT	L. ORR, BUSINESS & SOC REVIEW	W. RUCKELSHAUS	77/12/15	WRITTEN
COASTAL ZONE MANAGEMENT		L. ROCKEFELLER	W. RUCKELSHAUS	80/04/08	WRITTEN
DISSOLVING SULFITE BPT PETITION	CLEAN WATER ACT	PETITION TO EPA	JACK LARSEN	82/06/10	WRITTEN
DUPONT PROJECT		NAT REED	W. RUCKELSHAUS	80/02/29	WRITTEN
EDF TRUSTEESHIP		BILL BUTLER, EDF	W. RUCKELSHAUS	77/04/08	WRITTEN
EPA REG 10 ENFORCEMENT		EPA REGION 10	W. RUCKELSHAUS	78/07/14	WRITTEN
INDUSTRIAL SITING		B. REILLY, CONSERV. FOUNDATION	W. RUCKELSHAUS	79/06/11	WRITTEN
LONGVIEW NEWS EDITORIAL		EDITOR, LONGVIEW NEWS	W. RUCKELSHAUS	76/12/02	WRITTEN
MALASIAN RHINOCEROUS		RUSS TRAIN, WORLD WILDLIFE FUND	W. RUCKELSHAUS	80/06/26	WRITTEN
MINOR USE PESTICIDE POLICY	FIFRA	COMMENTS TO EPA	DAVE NICHOLSON	82/07/15	WRITTEN
NOISE STANDARD	NOISE CONTROL ACT	LLOYD PRESLAR	W/ RUCKELSHAUS	76/03/23	WRITTEN
NSPS - INDUSTRIAL BOILERS	CLEAN AIR ACT	COMMENTS TO EPA ON NSPS BID	BOB JAMISON	81/04/10	WRITTEN
		NAPCTAC MEETING TESTIMONY	KEN KARCH	82/06/16	WRITTEN/ORAL
		NAPCTAC MEETING TESTIMONY	BOB JAMISON	82/06/16	WRITTEN/ORAL
PESTICIDE LABEL CHANGE	FIFRA	COMMENTS TO EPA	DAVE NICHOLSON	80/12/02	WRITTEN
PRESCRIBED BURNING	NOAA BUDGET	JOHN BYRNE, NOAA	DAVE NICHOLSON	82/03/01	WRITTEN
REGULATORY REFORM		H. PERRITT, DOL	W. RUCKELSHAUS	76/06/16	WRITTEN
		E. SCHMULTS, WHITE HOUSE STAFF	W. RUCKELSHAUS	76/03/23	WRITTEN
		ERNIE MINOR, CEQ	W. RUCKELSHAUS	83/01/21	WRITTEN
		V. PRES. GEORGE BUSH	W. RUCKELSHAUS	81/01/30	WRITTEN
RISK ASSESSMENT		M. GOUGH, OTA	W. RUCKELSHAUS	80/05/09	WRITTEN
ROLFITE COMPANY STOCK OPTION		R. GILBERT, ROLFITE COMPANY	W. RUCKELSHAUS	77/12/08	WRITTEN
SUPERFUND SITE - EPPING	CERCLA	E. M. THOMAS, EPA REGION 1	DAVE NICHOLSON	82/09/02	WRITTEN
		E. M. THOMAS, EPA REGION 1	DAVE NICHOLSON	82/09/01	WRITTEN
SUPERFUND SITE - SEYMOUR	CERCLA	J. SPENCER, EPA REGION 10	JACK LARSEN	82/12/21	WRITTEN
		S. D. RAMSEY, EPA REGION 5	DAVE NICHOLSON	82/11/10	WRITTEN
		C. GOODLOE, JUSTICE DEPT	DAVE NICHOLSON	82/08/27	WRITTEN

WEYER ENVIRON COMMUNICATIONS

SUBJECT	BILL NO/LAW	TO WHOM?	FROM WHOM?	DATE	HOW PRESENTED
SUPERFUND SITE - STRINGFELLOW	CERCLA	D. MOWDAY, EPA REGION 9	DAVE NICHOLSON	82/08/31	WRITTEN
		D. MOWDAY, EPA REGION 9	DAVE NICHOLSON	82/09/10	WRITTEN
TOXIC EFFLUENT LIMITATIONS	CLEAN WATER ACT	HOUSE PW & TRANS SUB-COMM TEST.	JACK LARSEN	80/06/19	WRITTEN/ORAL
TOXIC/HAZARDOUS SUBSTANCES		IRVING SELIKOFF	W. RUCKELSHAUS	79/11/20	WRITTEN
TOXICITY EFFLUENT TESTING	CLEAN WATER ACT	COMMENTS TO EPA	KEN KARCH	81/04/27	WRITTEN
VISIBILITY	CLEAN AIR ACT	SENATE ENV & PUB WKS COMM TEST	JACK LARSEN	81/06/26	WRITTEN/ORAL
VISIBILITY REGULATIONS	CLEAN AIR ACT	COMMENTS TO FOREST SERVICE	DAVE NICHOLSON	80/08/26	WRITTEN
		COMMENTS TO EPA	DAVE NICHOLSON	80/01/22	WRITTEN
		COMMENTS TO FOREST SERVICE	DAVE NICHOLSON	82/07/19	WRITTEN
		COMMENTS TO EPA	DAVE NICHOLSON	80/08/20	WRITTEN
		V. EVANS, NAT'L PARK SERVICE	DAVE NICHOLSON	81/02/13	WRITTEN
WATER QUALITY STANDARDS	CLEAN WATER ACT	EPA PER 47 FR 49234	KEN KARCH	83/02/09	WRITTEN/ORAL
WILDLIFE MANAGEMENT PLAN		RUSS TRAIN, WORLD WILDLIFE FUND	W. RUCKELSHAUS	80/05/12	WRITTEN

Weyerhaeuser Company

Tacoma, Washington 98477
(206) 924-2345

May 11, 1983

Senator Robert T. Stafford
Chairman of the Committee on
  the Environment and Public Works
Hart Senate Office Building
Room 133
Washington DC 20510

Dear Senator Stafford:

This responds to the Committee's request for the Weyerhaeuser Company's comments on the testimony of Mr. Sidney Wolf, who represented "Environmental Action" before your committee on May 3, 1983. I will confine this response to those portions of Mr. Wolf's testimony that attempt to examine our environmental record and performance.

Weyerhaeuser Company is a large and complex enterprise. We own and manage almost 6 million acres of domestic timberland, operate 133 manufacturing facilities in 82 U.S. locations, and have major interests in commercial and residential real estate development. Consequently, practically every operational decision we make every day - from logging, to running our mills 24-hours-a-day, to proposing real estate developments - bring us into contact with strongly held public concerns about the environment and place us under the jurisdiction of numerous environmental laws and regulations administered by government at all levels in many locations.

An examination of our record of response to the public's concerns, and to government's regulation of our operations over the years, establishes that we have a good record. It is not perfect. We have made mistakes in the past and will probably make more in the future. But we are trying hard to conduct ourselves as an environmentally responsible company. As a progressive business organization, we are sensitive to public concerns, willing to listen to contrary points of view, willing to negotiate and make changes. We are tough on ourselves when it comes to the self-policing and reporting of violations that is so essential to successful environmental law and regulation.

We also have made the necessary financial commitment to fix environmental problems where they occur. Over the past ten years we have spent on average more than $70 million annually on environmental, protection and enhancement.

Let me now take each of Mr. Wolf's allegations and set them in perspective.

Longview, Washington:

Weyerhaeuser operates one of the largest integrated wood products manufacturing complexes in the world at Longview, employing almost 4,500 people in the region. In 1979, we consented to a $135,000 fine for violation of a water discharge permit issued to our pulp mill. In order to comply with Clean Water Act regulations for discharge from this pulp mill, we were required to install additional treatment capacity to meet the 1977 deadline for BPT (Best Practical Technology). We could have used a traditional settling pond method, but that would involve hundreds of acres of ponds abutting against residential areas. Instead, we opted for a more advanced process, a deep tank technology which is far more compact and, we believe, more effective. The cost was nearly $55 million.

Unfortunately, we encountered problems in installing and using this new technology, the first such application of its size in the industry, which delayed meeting the 1977 BPT treatment deadline. This fact was noted when we applied for and were given an approved water discharge permit by the state of Washington which included a phased schedule to bring the discharge into compliance by 1978. This permit was submitted to EPA by the state as required by law.

In 1979 the EPA advised us that it would not accept the compliance schedule approved by the state. It brought formal action against us for not meeting the 1977 deadlines. As noted, the case was settled out of court, for $135,000, and our discharge there currently meets all state and federal standards.

Toutle River - Mount St. Helens (Kidd Valley):

After the eruption of Mount St. Helens in 1980, we were operating under emergency conditions, as were others, in order to remove trees which were being undercut by the Toutle River and posed a flood hazard to downstream communities, as well as a fire danger and breeding ground for insects. Thirty to forty foot mud flows had already come down the valleys as a result of the eruption. The river itself was a muddy torrent cutting a new channel through the mud. The entire fishery resource in the river had all been destroyed by the extreme heat and silt following the eruption. Under the emergency provisions of the state Shoreline Act, we had notified the correct officials and had the necessary permission to remove nine acres of green timber from the devastated area. It wasn't until after the logging was virtually complete that we found that oral approvals given by various agencies under emergency conditions had not been documented in writing, and we were in technical violation of the Act.

No citation or other action was ever brought against the company. There is no evidence that our action degraded the environment. To suggest that we "took advantage of the enormous natural disaster to make a quick profit" on nine acres of timber is ludicrous.

Since that time we have hand-planted conifer seedlings on over 24,000 acres of our land devasted by the St. Helens eruption, including the nine acres in Kidd Valley. When our regeneration program there is complete in 1985, we will have planted more than 17 million individual seedlings on Mount St. Helens. In addition, we have transplanted more than 150,000 cottonwood cuttings along the Toutle River to stabilize the banks, including those in the area in question.

Rothschild, Wisconsin:

Weyerhaeuser purchased the Rothschild sulfite paper mill in 1973. The mill had inadequate pollution control equipment and the company proceeded to install a new secondary treatment system, which was operational well ahead of the 1977 BPT deadline. Two additional capital projects followed, and a total of $14 million was spent for waste-water related environmental controls at Rothschild. The most recent expenditure was in 1981 for new technology needed to address reduced landfill capacity. Problems, however, occurred with that technology, but the situation is now under control. There has been only one monthly average violation since last summer, and none since November. Even prior to bringing the mill into compliance, however, we had reduced the pollution flowing into the river there by 85 percent from discharge under previous ownership.

There is no denying that Weyerhaeuser had problems at Rothschild. Despite our best intentions and the expenditure of large sums of money, we have had serious difficulty in keeping this old facility in constant compliance. We believe we have now solved the problems.

Briar, Arkansas

Weyerhaeuser has owned a gypsum mine and plant at Briar, Arkansas since 1969. They are in a rural area on a 2,000-acre site with the closest neighbor (a farm) about 1/2 mile from any emission discharge point. To my knowledge, we have never had any serious environmental problems at the Briar facility, and very few complaints concerning gypsum dust generated in the manufacturing process.

The dust, very much like talcum powder, is not classified as toxic or hazardous. There has never been any suggestion from a regulatory agency that the mill has been a problem to its neighbors by violating ambient air standards.

The company has never been cited for violation of opacity standards. We, however, recognized that a problem did exist, and in February 1980, we applied for permits to install additional air pollution control devices. We ordered the equipment at a cost of about $1 million. By March 1982, the equipment was installed and functioning, and in April the State of Arkansas certified that we were in compliance with opacity standards. There was a breakdown in one of the transformers in July 1982, affecting only 1/10th of the emissions, which was corrected by September.

Difficulty experienced with measuring equipment was not due to the volume of dust, but rather to the nature of the material; damp gypsum dust tends to harden just like the wallboard, which is the end product. We did not apply for a variance from the standard, but rather submitted a compliance schedule which we met.

Stringfellow Site:

A Weyerhaeuser contractor used the Stringfellow site from 1962 until it was closed in 1972 to dispose of non-toxic liquid starch, a material used to stiffen shipping containers manufactured at our Colton, California box plant. In the latter part of this period, small amounts of printing ink were mixed in with the starch. There is a question as to whether the levels of heavy metals in these inks could have been high enough to cause the waste to be defined - retroactively - as hazardous waste under federal standards adopted in 1980. The company is currently conducting tests to make this determination.

When the Weyerhaeuser contractor used the Stringfellow site it was licensed and regulated by the State of California. As the 11th largest volume generator of waste at Stringfellow, Weyerhaeuser was represented on the generators' committee, but not on the negotiating committee which worked with EPA. Weyerhaeuser is named as a defendant in the litigation recently filed by the U.S. Department of Justice.

Seymour, Indiana:

You have been furnished with a chronology of settlement discussions at this site. To characterize the $82,000 settlement with EPA as a "sweetheart" settlement is a gross misstatement of fact. Again, this site was licensed and regulated by the state. The waste involved was solvent used to clean machines at a Weyerhaeuser milk carton plant in Seymour. We paid the dump operator to take this waste which we understood was intended for recycle. We consider our settlement offer fair to all concerned. To date, this offer has not been formally accepted by EPA.

Epping, NH:

A Weyerhaeuser contractor used the Epping site to dispose of solvent used to clean machinery at our hardwood plywood facility in Hancock, Vermont. Our records indicate that in the past five years, we made two shipments of 70 barrels each to the site. Following bankruptcy of the operator, Keefe Environmental Services, and the action by EPA, we sent staff engineers to the site in an attempt to locate barrels containing our solvent. We could not locate any of the barrels and presume the solvent was recycled. Early this year we joined other generators in offering to pay $109 per barrel, even though Weyerhaeuser could not locate any of its material on site. We have received no reply to that offer from the EPA.

2,4,5-T; 2,4D:

Weyerhaeuser has used both of these phenoxy herbicides on its land to suppress broad-leaf vegetation that competes with newly planted young conifer trees for sunlight and soil moisture. We harvest and replant only 2 to 3 percent of our land each year and usually apply herbicides only once in a 25-60 year crop rotation. Therefore, our use of herbicides is scattered over only a small portion of our lands in any year, in contrast to agricultural operations, which often use these same chemicals on most of their lands annually. These herbicides are cost effective management tools, closely regulated by EPA and state agencies. We, of course, have not used 2,4,5-T since its suspension by EPA, but have continued to use 2,4-D, primarily in the Pacific Northwest. Because of certain characteristics of southern pines, "D" is not effective in the southern United States.

A great deal of research has been done since the "T" suspension, including more than 19 separate reviews of the Alsea study mentioned by Mr. Wolf. We and others have examined these studies relating to the use of phenoxy herbicides and have concluded that if used properly, they pose no danger to human health or wildlife.

There are, of course, contrary views and these kinds of decisions must be made by the EPA. On the basis of the information available to us and from the conclusion of our own studies, however, we have concluded these herbicides can be used safely in forestry and have therefore urged EPA to reregister 2,4,5-T for forestry uses (it is still being used on rice and rangeland).

Oklahoma-Arkansas Clearcutting:

Weyerhaeuser Company owns 1.8 million acres of forestland in Oklahoma and Arkansas, purchased from Dierks Forests, Inc. in 1969. In these states, as elsewhere, the company practices High Yield Forestry, a process of planting, fertilizing, thinning and harvesting, utilizing clearcuts. Clearcutting is an established, successful forest management method which speeds the growth process of newly planted trees. Because it lets in more sunlight and therefore increases forage, clearcutting tends to favor some kinds of birds and animals over others.

The National Wildlife Federation as a Weyerhaeuser shareowner filed a stockholder petition in 1980 asking Weyerhaeuser to issue wildlife protection guidelines and implementation practices in Oklahoma and Arkansas. The Federation assembled and arranged funding through a grant from the Winthrop Rockefeller Foundation, for a "blue ribbon panel" of forestry and wildlife experts to examine our forestry practices in Oklahoma and Arkansas for the purpose of making recommendations as to how the company might do a better job of protecting wildlife while still conducting its operations profitably. The company fully cooperated in this effort and, as a result, conducted two tours of Weyerhaeuser lands for the panel in July of 1981 and in January 1982.

The panel issued its report in October, 1982 containing 29 recommendations. We are currently reviewing those recommendations and working toward a mutually satisfactory agreement with the Federation. I would invite your inquiries to Jay Hair, executive director of the National Wildlife Federation, concerning his view of the success and progress of this effort to date.

I would be glad to furnish additional information on any of these incidents or answer any questions you might have concerning our environmental policy or record at the Weyerhaeuser Company.

Sincerely,

John S. Larsen

John S. Larsen

JSL:25/5401/6

cc: Howard H. Baker
John H. Chafee
Alan K. Simpson
James Abdnor
Steven D. Symms
Pete V. Domenici
David Durenberger
Gordon J. Humphrey
Jennings Randolph
Lloyd M. Bentsen
Quentin N. Burdick
Gary Hart
Daniel Patrick Moynihan
George J. Mitchell
Max Baucus

American Paper Institute
and
National Forest Products Association

1. Please provide a list of each committee or subcommittee of your organization of which Mr. William D. Ruckelshaus is or has been a member. For each of these committees or subcommittees, please provide copies of all position papers, policy statements or similar documents prepared during Mr. Ruckelshaus' period of service. These should include, but not be limited to comments on proposed rules, regulations, and advance notices of proposed rulemaking as well as testimony on proposed legislation (e.g., amendments to the Clean Air and Water Acts).

2. To the extent it is possible, please provide the same information requested in Question #1 for the Weyerhaeuser Company.

3. Please provide a list of the individual members and the companies which they represented for the Select Committee on Forest Industry Handling of Toxic and Health-Related Issues. Also provide a copy of the Select Committee's conclusions, report, and recommendations (both interim and final).

It has been reported that in his capacity as chairman of the Select Committee Mr. Ruckelshaus narrated or otherwise participated in a film regarding forestry industry use of defoliants. Please provide a copy of this film, if it exists.

REGULATORY RELIEF

DOCUMENT	SUBJECT MATTER	DATE
Letter with Enclosures	L. Laun to G. Bush	May 11, 1981
Letter with Enclosures	L. Laun to A. Gorsuch	May 14, 1981
Letter with Enclosures	Ralph Hodges to Vice President Bush Response to a request for information on needed regulatory reform. Identical letters went to James Miller, Malcolm Baldridge and C. Boyden Gray.	June 16, 1981
Letter with Enclosures	Ralph Hodges to a series of Agency heads with the industry's suggestions on specific regulatory changes to their agencies. Letters went to Joseph Bratton, Corps of Engineers; James Edwards, DOE; Dwight Calhoun, USDA; Anne Gorsuch, EPA; Charles Ferris, FCC; Michael Pertschuk, FTC; James Walsh, NOAA; F. Eugene Hester, Fish & Wildlife Service; Samuel Pierce, HUD; James Watt, DOI; and David Stockman, OMB.	June 19, 1981

(Enclosures Itemized in Body of Letters)

CHEMICALS

DOCUMENT	SUBJECT MATTER	DATE
Letter	Comments re Document Control No. OPTS-48001C, Toxic Subetances Control Act, Data Reimbursement Proposed Rule (47 Fed. Reg. pg. 24348, June 4, 1982)	9/1/82
Letter & Paper	Mike Farrar to John Bernandez, EPA.	9/1/82
Letter	Mike Farrar to John Todhunter, EPA	8/18/82
Letter	Comments on OPTS-82004G Proposed Chemical Information Rules; Preliminary Assessment Information. Opportunity for Additional Comment (47 FR 27009, 6/22/82)	8/6/82
Letter	Mike Farrar to Joni Repasch, EPA	7/19/82
Document	Comments on the Sub-Cabinet Council's Draft Food Safety Amendments	6/3/82
Letter	Comments re OPTS 62023; Polychlorinated Biphenyls (PCBs); Use in Electrical Equipment	5/24/82
Letter	Comments re Docket No.H-022 - Hazard Communication Proposed Rule 47 FR 12092, 3/19/82	5/18/82
Document	Comments and Statement of Position on the OSHA Cancer Policy.	4/5/82
Letter	Mike Farrar to Donald Houston, EPA	12/21/81
Document	Comments in Response to EPA's Notice of Proposed Rulemaking on Use of PCB-Containing Electrical Equipment.	12/7/81
Document	Comments on EPA Notice of Rulemaking Relating to PCBs Below 50 ppm.	11/16/81
Letter	Mike Farrar to Senator Robert T. Stafford	10/15/81
Letter	Mike Farrar to Donald Houston, USDA	9/30/81
Letter	From Michael Farrar to C. W. McMillan, USDA.	9/29/81
Letter	From Michael Farrar to Richard E. Lyng, USDA	8/13/81

FOREST CHEMICALS

DOCUMENT	SUBJECT MATTER	DATE
Letter	William McCredie to Edwin Johnson, EPA	1/22/81
Letter	John Hall to Russell Dickenson, National Park Service, DOI	2/23/81
Letter	Bob Kirshner to Michael Dellarco, EPA	2/25/81
Letter	William McCredie to Mary Beatty, EPA	3/11/81
Letter	William McCredie to Tom Imeson, Senator Hatfield's Office	4/7/81
Letter	William McCredie to Edwin Johnson, EPA	4/22/81
Letter	John Hall to Edwin Johnson, EPA	5/13/81
Letter	William McCredie to Edwin Johnson, EPA	5/18/81
Letter	William McCredie to Edwin Johnson, EPA	5/20/81
Testimony	Kip Howlett testifing for API/NFPA before the House Agriculture Subcommittee on Department Operations, Research, and Foreign Agriculture on H.R. 638	6/23/81
Letter	John Hall to Rep. James Weaver	7/7/81
Testimony	John Hall testifying before the House Agriculture Subcommittee on Department Operations, Research, and Foreign Agriculture on FIFRA reauthorization	7/16/81
Letter	William McCredie to Edwin Johnson, EPA	8/26/81
Letter	Bob Kirshner to Tom Adams, House Agriculture Committee Staff	9/10/81
Letter	William McCredie to Michael Dellarco, EPA	9/10/81
Letter	John Hall to Rep. George Brown	9/21/81
Letter	Mike Farrar to Sen. Robert Stafford	10/15/81
Letter	John Hall to Rep. George Brown	10/27/81
Letter	Bob Kirshner to John Daniel, EPA	10/29/81
Letter	John Hall to Rep. James Weaver	11/5/81
Letter	John Hall to Rep. William Wampler	11/18/81

Letter	John Hall to Rep. George Brown	11/18/81
Letter	Bob Kirshner to Edwin Johnson, EPA	1/19/82
Letter	Mike Farrar to John Todhunter, EPA	3/2/82
Letter	Mike Farrar to Rep. George Brown	4/27/82
Letter	Mike Farrar to Rep. Kika de la Garza	4/28/82
Letter	Mike Farrar to Sen. Jesse Helms	6/15/82
Testimony	Statement of William H. McCredie for API/NFPA before the Senate Committee on Agriculture, Nutrition and Forestry on S. 2620 and S. 2621.	6/22/82
Comments	Comments on EPA notice "Pesticides on Commercial Non-Food/Non-Feed Nursery and Greenhouse Crops Not Named on Product Labels; Minor Uses," 47 Fed. Reg. 21610 (May 19, 1982)	7/9/82
Letter	Mike Farrar to all members of the House of Representatives	7/27/82
Letter	Mike Farrar to Sen. Heflin	8/16/82
Letter	Mike Farrar to Sen. Hayakawa	8/16/82
Letter	Mike Farrar to Senator Helms re: Forest Industry Position on S. 2620 and S. 2621	8/16/82
Letter	Ralph Hodges to Paul Lapsley, EPA	9/15/82
Letter	Mike Farrar to Edwin Johnson, EPA	9/23/82

WOOD PRODUCTS HEALTH ISSUES

DOCUMENT	SUBJECT MATTER	DATE
Letter	H. Imbus to Dr. J. Gamble	9/3/80
Letter	Dr. H. Imbus to R. Nelson	9/9/80
Letter	G. Prange to Dr. J. Gamble	1/28/81
Letter	W. Hitchings to Dr. W.Blot	2/3/81
Letter	W. Hitchings to Dr. L. Brinton	2/3/81
Letter	G. Prange to Dr. J. Gamble	8/20/81
Letter	G. Prange to Dr. J. Gamble	9/2/81
Letter	G. Prange to Dr. J. Gamble	11/5/81
Letter	G. Prange to Dr. V. Hampl	12/29/81
Letter	R. Hodges to Sen. M. Hatfield	6/28/82
Letter	R. Hodges to Sen. B. Packwood	6/28/82
Letter	W. Hitchings to Dr. K. Gupta	9/20/82
Comments	G. Prange to Dr. V. Hampl Industry comments on NIOSH Report "Development of Criteria for Control of Woodworking Operation."	10/27/82
Letter	R. Hodges to S. Pierce	12/27/82

SOLID WASTE / HAZARDOUS WASTE

DOCUMENT	SUBJECT MATTER	DATE
Comments	EPA Proposal for Permit-by-Rule System for Wastewater Treatment and Elementary Neutralization Units.	January 16, 1981
Comments	Proposed Amendments to the Small Generator Provisions.	January 19, 1981
Comments	Interim Final Rule on Treatment and Storage Activities Taken in Response to a Hazardous Waste Spill.	January 19, 1981
Comments	Interim Final Rule Extending the Existing 90 Day Exemption Period for On-Site Accumulations of Hazardous Waste Prior to Off-Site Treatment, Storage or Disposal.	January 19, 1981
Comments	Proposed Amendments and Clarifications Concerning Empty Containers and their Residues.	January 26, 1981
Comments	Interim Final Amendments on Hazardous Waste Generated in Storage Tanks and Manufacturing Process Units.	January 30, 1981
Comments	Interim Final Rulemaking on Obtaining Interim Status.	February 17, 1981
Comments	Proposed Groundwater Protection Strategy.	February 18, 1981
Comments	Interim Final Rule on Generators' Responsibility with Respect to Shipments of Hazardous Waste from a Facilities.	March 2, 1981
Comments	Interim Final Rule for Transporters Holding Hazardous Waste Up To 10 Days without a RCRA Storage Permit.	March 2, 1981
Comments	Interim Final Rule Existing Hazardous Waste Management Facility.	March 10, 1981
Comments	Interim Final Rule on Establishing Incinerator Standards.	March 24, 1981
Comments	Interim Final Rule dealing with Interim Authorizations of State Programs.	March 27, 1981

Comments	Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities — Phase IIA Regulations.	March 27, 1981
Study	The Milwaukee Garbage Project.	March - 1981
Comments	Miscellaneous Modifications and Clarifications to Parts 264 and 265 Standards.	April 13, 1981
Comments	Interim Standards for New Land Disposal Facilities.	April 14, 1981
Comments	Proposed Amendment - Hazardous Waste Incinerator Standards.	April 23, 1981
Comments	RCRA Personnel Training Guidance Manual.	April 30, 1981
Comments	OMB Review of EPA RCRA Hazardous Waste Regulations.	July 6, 1981
Comments	Treasury Department Hazardous Substance Liability Insurance Studies.	September 30, 1981
Comments	Permitting Standards for Land Disposal Facilities.	September 30, 1981
Comments	Interim Final Rule on Handling Waste Samples.	November 24, 1981
Comments	Proposal to Suspend Effective Date of Interim Final Rules on Existing Storage Surface Impoundments and Incinerators.	December 4, 1981
Comments	Amendments to Container Regulations and to Waste Piles Regulations.	December 7, 1981
Comments	Interim Final Rules on Location Standards for Seismic Considerations.	December 23, 1981
Comments	Interim Final Rule Amending the "Mixture Rule".	January 18, 1982

Comments	Interim Final Rule and Interim Final Amendments to Rules on Lab Packs.	January 18, 1982
Letter	D. J. Greenwald, III, to Mike Dworkin, Esq.	February 26, 1982
Comments	Permit by Rule Regime for Wastewater Treatment Units and for Elementary Neutralization Units.	March 4, 1982
Comments	Interim Final Amendments Waiving Groundwater Monitoring Requirements for Surface Impoundments that Neutralize Corrosive Hazardous Wastes.	March 9, 1982
Letter	D. J. Greenwald, III, to Mike Dworkin, Esq.	March 24, 1982
Comments	Proposed Uniform Hazardous Waste Manifest.	April 28, 1982
Comments	Proposed National Contingency Plan	April 28, 1982
Comments	Proposed Uniform Hazardous Waste Manifest.	May 3, 1982
Position Paper	H.R. 6307 — Change of "Hazardous Wastes" to "Substances".	May 19, 1982
Position Paper	H.R. 6307 — Proposed Amending of § 7002(f).	May 19, 1982
Testimony	Oral Statement of Jack Greenwald Before the Subcommittee on Water Resources, House Committee on Public Works and Transportation.	May 26, 1982
Letter	M. Farrar to R. A. Roe.	June 7, 1982
Comments	Revised Interim Final Rules on Financial Responsibility.	June 7, 1982
Comments	Revised Interim Final Rules on Financial Responsibility.	June 15, 1982
Testimony	Oral Statement of Alan M. Lindsey before the Subcommittee on Environmental Pollution, Senate Environment and Public Works Committee.	June 24, 1982

Testimony	Written Statement of Alan M. Lindsey before the Subcommittee on Envionmental Pollution, Senate Environment and Public Works Committee.	June 24, 1982
Comments	Liquids in Landfills — Proposed Free Liquid Test Protocols.	June 28, 1982
Letter	M. Farrar to J. Chafee	July 8, 1982
Letter	S. Dempsey to M. Dworkin, Esq.	July 27, 1982
Letter	S. Dempsey to S. Silverman, Esq.	July 27, 1982
Comments	OMB Review of EPA's Proposed Annual Report for Hazardous Waste Generators and Treatment, Storage, and Disposal Facilities.	August 2, 1982
Letter	S. Dempsey to M. Dworkin, Esq.	August 4, 1982
Letter	D. J. Greenwald, III, and S. Dempsey to S. Silverman, Esq.	August 4, 1982
Comments	EPA's Phase II Degree of Hazard Study.	August 20, 1982
Comments	Interim Final Rule to Remedy Gap in Permitting Authority.	September 24, 1982
Letter	D. J. Greenwald, III, to M. Greenwood, Esq.	October 14, 1982
Comments	Cover letter from Mike Farrar and comments on Permitting Standards for Land Disposal Facilities and Land Disposal Interim Status Proposal; and Permitting Requirements for Land Disposal Facilities.	November 23, 1982
Comments	Proposed Revision to Annual Reporting Requirements for Hazardous Waste Generators and TSD Facilities.	November 26, 1982
Comments	OMB Review of RCRA Information Requirements for Land Disposal Permitting Standards.	December 21, 1982
Study	Waste Paper — The Future of a Resource, 1980 - 2000.	December - 1982

AIR

DOCUMENT	SUBJECT MATTER	DATE
Letter	Louis Laun to Members of the House Committee on Energy and Commerce	12/7/82
Letter	Louis Laun to Members of the U.S. Senate	12/7/82
Letter	M. Farrar to Amy Hardy, EPA	11/19/82
Letter	Carol Raulston to Jo Cooper, Committee on Environment and Public Works	11/15/82
Memo	Mike Farrar to all members, U.S. House of Representatives re Clean Air Act - Acid Rain Amendments	8/10/82
Letter	Fred Benson to Senate Environment Public Works Committee	8/4/82
Document	Comments on Draft Proposed Performance Standards for Industrial Boilers	6/16/82
Letter	Blaine Fielding to Mrs. Anne Gorsuch	2/1/82
Letter	Louis Laun to U.S. House of Representatives	1/28/82
Letter	Louis Laun to U.S. House of Representatives	1/26/82
Letter	Fred Benson to Thomas Luken	1/8/82
Letter	Blaine Fielding to Kathleen M. Bennett	10/21/81
Letter	Blaine Fielding to Congressman Judd Gregg	10/5/81
Cover Letter	Cover Letter for Clean Air Act Brochure	Undated
Brochure	Issue Papers National Ambient Air Quality (NAAQS) Nonattainment Requirements and State Implementation Plans Prevention of Significant Deterioration (PSD) Visibility Protection Control Technology Percentage Reduction Acid Rain Glossary	8/81
Letter	Mike Farrar to Anne Gorsuch	8/10/81
Letter	Blaine Fielding to John Hoffman, EPA	7/29/81

Document	Comments on Standards of Performance for New Stationary Sources; Revisions to the Priority List of Categories; 46 FR 26501	7/13/81
Testimony	John C. Cuthbertson before the Senate Environment and Public Works Committee re The Percentage Reduction Requirement of Section III of the Clean Air Act	7/8/81
Testimony	Jack Larsen before the Senate Environment & Public Works Committee re the Visibility Protection Provisions of the Clean Air Act.	6/26/81
Document	Comments on Identification of Integral Vistas Associated with Federal Class I Areas; Reopening of Comment Period, 46 FR 23389 4/24/81	6/8/81
Testimony	O. B. Burns before the Senate Committee on Environmenta and Public Works on Reauthorization of the Clean Air Act	5/20/81
Letter	Blaine Fielding to Frank Blake	5/15/81
Testimony	David B. Strathdee before the Environment and Public Works Committee re: The effects of acid rain.	4/14/81
Letter	Docket EN-80-17 comments on the proposed rule regarding the "potential loophole" 46 FR 9125.	4/7/81
Letter	Blaine Fielding to Chris Bernabo, Council on Environmental Quality	3/31/81
Document	Comments on the National Park Services Identification of Integral Vistas Associated with Federal Class I Areas; Guidelines Availability and Preliminary List 46 FR 3646.	2/17/81
Document	Petition for Reconsideration and Amended Rulemaking of Visibility Protection Regulations	1/28/81

WATER

DOCUMENT	SUBJECT MATTER	DATE
Document	Comments on Pulp, Paper and Paperboard Point Source Category Effluent Limitations Guidelines and New Performance Standards for Polychlorinated Biphenyls; Proposed Rules; 47 FR 52066 11/18/82.	2/16/83
Document	Comments on Water Quality Standards Regulations, 47 FR 49234 10/29/82.	2/10/83
Letter	Michael Farrar to Mrs. Anne Gorsuch, EPA	12/30/82
Document	Comments on Best Conventional Pollutant Control Technology; Effluent Limitation Guidelines; Proposed Rules; 47 FR 49176 10/20/82	12/28/82
Letter	Mark Rey to Mr. Martin Smith, White House Office of Policy Development	12/23/82
Paper	Issue Paper "Forest Industry Supports Clean Water Act Amendments in 1982"	12/10/82
Letter	To Mr. William Diamond, EPA, Comments on General Pretreatment Regulations for New and Existing Sources; Removal Credits, 47 FR 42698 9/28/82	11/29/82
Letter	Mark Rey to Mr. Carl Myers, EPA	11/19/82
Paper	Issue Paper "Forest Industry Supports Clean Water Amendments in 1982"	11/8/82
Memo	208/404 Water Committee - Response to Office of Technology Assessment Questionnaire	11/5/82
Letter	Mark Rey to Ms. Suzanne Schwartz, EPA.	10/8/82
Letter	Michael Farrar to Joseph A. Cannon, EPA	9/24/82
Letter	Pat Hill to John Hernandez, EPA	9/9/82
Letter	Michael Farrar to Frederic A. Eidsness, Jr., EPA	9/3/82
Letter	Pat Hill to Congressman Don H. Clausen	8/31/82
Letter	M. Farrar to Frederic A. Eidsness, Jr., EPA	8/25/82
Letter	Mark Rey to Office of the Chief of Engineers, U.S. Army Corps of Engineers	8/23/82
Letter	Comment on Proposed Rulemaking in Accordance with "Common Issues" Settlement, 47 FR 25546 6/14/82.	8/12/82
Letter	Pat Hill to John Hernandes, EPA	8/12/82

Testimony	Peter Wrist before the Subcommittee on Water Resources, U.S. House of Representatives	7/28/82
Testimony	Curtis A. Barton before the Subcommitte on Environmental Pollution, U. S.Senate	7/22/82
Letter	Mike Farrar to Congressman Robert A. Roe	7/6/82
Letter	Mike Farrar to Senator John H. Chafee	6/22/82
Letter	Comments on EPA's Grants for Construction of Treatment Works Regulations 47 FR 20450	6/11/82
Letter	Mike Farrar to Congressman Roe (Clean Water Act)	6/10/82
Letter	Mike Farrar to Senator John Chafee	6/10/82
Letter	Pat Hill to John Hernandez, EPA	5/20/82
Paper	Issue Papers: Clean Water Act Amendments in 1982 Pretreatment National Pollutant Discharge Elimination System Marine (Deep Sea) Dischargers New Source Performance Standards for Conventional Pollutants Nonconventional (Nontoxic) Pollutants Economic Hearing Requirements for States Which Force Effluent Controls Beyond the 1984 BAT Standards State Administration of Water Programs State Water Quality Standards Best Conventional Technology for Conventional Pollutants Section 404 Dredged or Fill Permit Program Section 208 Planning/Control of Nonpoint Source Pollution	
Letter	Pat Hill to Joseph Cannon, EPA	5/5/82
Letter	Fred Benson to Boyden Gray, Office of the Vice President	4/20/82
Letter	Mark Rey to Daniel Kevin, Office of Technology	4/28/82
Letter	Mark Rey to John Hernandez, EPA	4/9/82
Letter	Pat Hill to Richard Rains, EPA	4/9/82
Letter	Mike Farrar to Christopher DeMuth, President's Task Force on Regulatory Relief	3/5/82
Letter	M. Farrar to Mark Reiter, EPA	2/19/82
Letter	M. Farrar to Dr. Hernandez (Clean Water Act)	2/19/82
Letter	Mike Farrar to Robert Dellinger, EPA	2/17/82

Letter	Comments on Contractor's Report on Regulatory Impact Analysis of National Pretreatment Program (46 FR 62098, 12/22/81	2/5/82
Memo	208/404 Water Committee re Comments on Corps Regulatory Review of the Section 404 Program	12/29/81
Letter	Pat Hill to Thomas K. H. Laverty, EPA	11/20/81
Letter	Mike Farrar to Robert Stafford, Senate	11/17/81
Letter	Comments on Proposed Rule on General Pretreatment Regulations for Existing and New Sources 46 FR 197 10/13/81	11/12/81
Letter	Pat Hill to Martha G. Prothro, EPA	11/9/81
Letter	M. Farrar to Bruce Barrett, EPA	9/10/81
Letter	Mike Farrar to William R. Gianelli, Department of the Army	9/4/81
Letter	Mark Rey to J. William Jordan, EPA	8/14/81
Memo	Pretreatment Task Group re Filings in Pretreatment Litigation	8/11/81
Letter	Mark Rey to Renee Rico, EPA	8/4/81
Letter	Mike Farrar to Steven Schatzow, EPA	7/6/81
Letter	Mike Farrar to John H. Chafee, Senate	7/2/81
Letter	Comments on EPA 5/18/81 proposal implementing the Industrial Cost Exclusion (ICE) provisions of PL 96-483.	7/2/81
Letter	Mark Rey to Bernie Goode, U. S. Army Corps of Engineers	6/26/81
Letter	Mark Rey to Bernie Goode, U.S. Army Corps of Engineers	6/26/81
Document	Comments on Pulp, Paper and Paperboard Industry Point Source Categories; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards; Proposed Rules; 46 FR 1430 1/6/81	6/9/81

Letter	Mike Farrar to James Sanderson, EPA	5/15/81
Letter	Russ Frye to James Smith, EPA	5/7/81
Letter	Mike Farrar to Congressman Robert Roe	5/5/81
Testimony	Duane Marshall before the Water Resources Subcommitte on The Industrial Cost Exclusion Provisions of PL 96-483	4/29/81
Letter	Comments to EDG Docket Clerk on Pulp, Paper and Paperboard Industry (WH-522)	4/24/81
Letter	Rodney Glover to Congressman Elliot H. Levitas	4/20/81
Letter	Mark Rey to John Meagher, EPA	4/16/81
Document	Comments on Municipal Wastewater Treatment Costs: A Study by the Staff of the Council on Wage and Price Stability 9/1980	4/81
Letter	George Anderson to Senator John Chafee	3/25/81
Letter	Mark Rey to Joan Abrahamson,	3/24/81
Letter	Mark Rey to Mary Anne Beatty, EPA	3/13/81
Letter	Comments on "Major Rule" Determination Regarding General Pretreatment Regulations for Existing and New Sources, 46 FR 9404 1/28/81.	3/13/81
Letter	Comments on Objections to and Request for Reconsideration of General Pretreatment Regulations for Existing and New Sources, 46 FR 9404, 1/28/81	3/13/81
Letter	Mark Rey to Joseph Krivak, EPA	2/5/81
Letter	Comments on Army Corps of Engineers proposal to amend permit regulations for controlling certain activities in Waters of the US. 45 FR 62732.	1/12/81
Document	Comments on U.S. Army Corps of Engineers Proposal to Amend permit Regulations for Controlling Certain Activities in Waters of the US, 45 FR 62732.	12/30/80

ENVIRONMENTAL FORUM

DOCUMENT	SUBJECT MATTER	DATE
Meeting Book	API/NFPA Environmental Forum XI	June 9-10, 1981
Meeting Book	API/NFPA Environmental Forum XII	November 3-4, 1981
Meeting Book	API/NFPA Environmental Forum XIII	June 15-16, 1982

TRANSCRIPT

"THE FOREST INDUSTRY AND PEOPLE'S HEALTH, An Interim Report"

This presentation addresses an important and controversial subject...toxics.

It is intended to inform forest industry management about the issue and the public's concern.

You may take exception to some of the material.

However, industry leadership felt it important that you have a balanced picture of the situation to fully understand the climate in which the forest industry must do its work.

AMERICAN FOREST INSTITUTE

TRANSCRIPT

"THE FOREST INDUSTRY AND PEOPLE'S HEALTH, An Interim Report"

NARRATOR: We live today in a climate of uncertainty--a climate that is reflected and intensified by media coverage of events.

NEWSCASTER: The Nuclear Regulatory Commission reports that the situation at the Three Mile Island Nuclear Power Plant...

NARRATOR: Environmental disasters have stirred wide public concern and outrage. From kepones in the James River of Virginia to chemicals seeping from New York's Love Canal, the public has become aware of a new set of environmental dangers.

(Music, title of show)

It is not surprising to find people anxiously looking for the next catastrophe, no matter how unlikely or remote the setting The forest products industry is aware of the issues raised by the use of potential toxics. Many of our operations are affected and three main areas of toxic concern have been identified: The health and safety of our workers, safeguarding the environment and insuring the safety of our products.

RUCKELSHAUS:

Our industry is a large and diverse enterprise. As one who works within it, I understand how totally involved we can all become in day-to-day management. But I believe this industry is big enough to listen and respond to genuine public concerns. As corporate citizens, our awareness and responsiveness to the public's concerns is a civic responsibility. It is also an economic imperative.

NARRATOR:

The Forest Industries Council Issue Coordinator for Toxics and Health is Bill Ruckelshaus of the Weyerhaeuser Company.

RUCKELSHAUS:

A major issue today is the use of potentially hazardous or toxic substances.

This is an interim report. We don't expect to give final answers, but we do expect to focus attention on an issue that affects us all. It goes without saying that our industry is dedicated to following the laws that regulate the use of toxic substances.

(Ruckelshaus)

We also are striving for a reso-resolution of the various issues raised by the use of these substances They are issues that will not have short-ter solutions. And our approach will have to be based on the same far-sighted thinking that we use to manage our businesses. The forests provide the primary commodity for the industry, so it is only natural that we begin our report there. By looking at the issues surrounding the use of phenoxy herbicides.

PROTESTERS:

They're spraying the people along with the brush and they're killing the animals, too...

NARRATOR:

What does this growing public sentiment mean to the forest products industry? Public opinion expert Robert Teeter has studied the issue in depth.

TEETER:

When public opinion goes in one direction strongly, it then is much more difficult to change and get it to go back in the other direction. It kind of represents a basic psychological fact, is that once you have formed a perception of something

(Teeter) that you had no perception of before, it is much more difficult to change that perception than it was for you to form the initial one.

PROTESTERS: They're spraying the people along with the brush and they're killing the animals, too...

NARRATOR: In the case of herbicides, public opinion is based primarily on two elements... the environmental impact and the risk posed to human health. The Mt. Sinai Medical Center is one of the nation's most highly regarded scientific institutions. Here, overlooking New York City's Central Park, Dr. Irving Selikoff directs the Center's Environmental Sciences Laboratory.

SELIKOFF: And part of our social approach these days, that that environment belongs to all of us and has to be guarded by all of us. And industry's responsibility then extends beyond the factory door.

NARRATOR:

One scientist who agrees with Selikoff is Dr. William Denison, a botanist at Oregon State University. His research, and that of others, has shown that herbicides may be ultimately harmful to timber growing sites. What do other scientists have to say on this issue?

The usefulness of herbicides is supported by Dr. John Walstad, also of Oregon State University.

WALSTAD:

This site contains a Douglas fir plantation that's 12 years old and this is essentially what intensive forest management is all about. Approximately 12 years ago the area was site-prepared using mechanical equipment to clear the area, followed by the use of herbicides to control grass, and finally ending with the planting of vigorous Douglas fir stock. The area will be ready for a commercial thinning in about 10 years and it will be ready for final harvest in about 30. For Mother Nature to do something equivalent to this would take 60 to 100 years or more.

DENISON:

The stakes are very high. If we're wrong and we succeed in , let's say, poisoning a good share of our potential timber-growing land, then we're all in big trouble.

WALSTAD:

When foresters apply herbicides to a particular forest area, very rarely do they kill back the vegetation completely. We're simply interested in suppressing the vegetation for a very short period of time.

NARRATOR:

The phenoxy herbicides 2,4,5-T and 2,4-D have been used safely for many years by foresters, and most experts agree that they are extremely effective in controlling brush

Nevertheless, the effects of herbicides have sparked wide scientific debate. Concerning the risk to human health, the debate centers on a minute contaminant known as dioxin, which has been found to cause cancer in certain laboratory animals. However, all of this study and debate is carried out quietly in laboratories, technical journals and seminars.

(Narrator) The actual spraying of herbicides has become a visible symbol igniting a wider, more vocal controversy -- a controversy that has moved from the laboratory to the streets.

WOMAN: I feel there have been miscarriages because of it and um, it, to a woman, is a devastating thing to have happen.

MAN: We're witnessing, uh, an overreaction on the general populace based on an insufficien amount of information. I don't feel that the herbicide issue is really that critical.

WOMAN: (with baby) I don't really know that much about it. I mean I'm not an expert. But the body certainly can take so many poisons but after a while a certain accumulation of toxins isn't good for anyone. I don't think we know the long range effects.

NARRATOR: Who does know the long-range effects of herbicides? Based on two studies that claimed a higher than normal incidence of miscarriage by women in the Alsea, Oregon area, the Environmental Protection Agency has suspended the use of 2,4,5-T in forest

(Narrator)

applications. 2,4-D is also being considered for suspension. In Washington, cancellation hearings are now underway that could eventually stop the use of 2,4,5- entirely.

JELLINECK:

Since we've taken that action, we have learned more about the Alsea area, both in terms of more about the spraying that occurred; and we've learned more about abortions that have occurred. Uh, we, in addition we've learned that studies in other countries, Sweden and Germany in particular, have implicated 2,4,5-T and presumably dioxin as a carcinogen in humans We think that based on the data that has come to light since our suspension action, that our original decision, even though it was based on a small subset of data, was not only prudent but was the correct one. We think that the administrative hearing th is now underway will eventually demonstrate that.

NARRATOR:

The impact of an EPA suspension extends far beyond the forest industry...it extends to people everywhere in the form of lost economic benefits. Dr. Elizabeth Whelan

(Narrator)

heads a group of well-known scientists who believe that good health and a healthy economy are equally attainable. On this principal, she founded the American Council on Science and Health.

WHELAN:

We at the American Council right now are looking specifically at the health impact of the herbicide 2,4,5-T. And what we're looking at is some of the data allegedly found in Viet Nam and the high dose exposures there. We're looking at some of the studies done in, for example, Oregon in terms of miscarriages and birth defects. And we're not prepared right now to come up with our final conclusion as the paper is still in preparation. But there is no doubt, no doubt, that the press has tremendously overstated this problem and that the government appears to be taking action in terms of trying to ban this particular substance on the basis of evidence which would not stand up to any kind of a scientific analysis or critique.

SELIKOFF:

Now this is a debate that is now going on. It's not going to be solved by scientists. It's not going to be solved by industry alone. It's not going to be solved by

(Selikoff) labor. It's not going to be solved by the public interest groups. It's going to be a vigorous public debate.

WHELAN: You must go back to the classic benefit-risk pattern and...and, just look at the data. Go in there and assess it. What are the benefits? What are the alternatives? What are the costs? And then what are the risks, in terms of health impact or just general environmental changes that might occur.

SELIKOFF: The risk-benefit ratio is a complex one because the risk may be taken by one and the benefit go to another.

NARRATOR: In the Pacific Northwest, where the herbicide issue has received intense media coverage, the question of risk and benefits also involves a public attitude toward the forest products industry. Is the industry more concerned for profits than for human health? Publisher Robert Ingalls of the Corvallis Oregon Gazette-Times:

INGALLS: The people who are using the herbicides, the people who are selling the herbicides, are very much concerned about the effects. Whether or not they are safe. Whether they can continue to use them. But I think primarily they are concerned about the people themselves.

NARRATOR: Not everyone shares Ingalls' view on the concern demonstrated by industry. In a nearby county, the question has become a highly charged political debate. Lane County Commissioner Jerry Rust.

RUST: I have challenged the Forest Service, the forest industry, the private and the public sectors, to give me one piece of data that shows that, shows a study that backs up their claims that we need these herbicides. And I have yet to receive one single shred of evidence, a scientific study that says, "We need these herbicides and here's why and here's what the costs and loss to our economy will be." I think it's one of the biggest lies the industry has ever told us -- that we need these herbicides.

INGALLS:

I'm sure this issue could become one of national concern in as much as not only does it affect the forestry industry, but it affects almost everything in agriculture. And of course agriculture is universal throughout the country, as is forestry in most locations throughout the country. So it's something that the sooner we get to the facts the better off we'll be.

SELIKOFF:

Industry is going to continue to use chemicals, I hope. They're very valuable. They're necessary for our scientific, economic, societal progress. The question is to use them safely. Not whether or not we're going to use them. We're going to use them. Now what does safely mean? It means that we first have to know whether or not they're toxic, because many chemicals are NOT. And those that are, how can we so utilize them without undo exposure to people.

NARRATOR:

There are a number of chemical and physical agents that have been identified by the industry as potentially hazardous to health, if not used safely. The safe application of these substances is critical to a resolution of the issues surrounding their use.

One chemical that has been used for many years in the manufacture of plywood is formaldehyde. Its possible effect on health could impact both workers and the consumer. Several federal agencies are involved in regulating formaldehyde.

The Environmental Protection Agency, the Occupational Safety and Health Administratio or OSHA, and the Consumer Products Safety Commission.

Dyes, solvents and chlorine are used extensively in making paper and paper products. Unless they are used carefully, they have a potential health impact on both the consumer and the worker. Health studies are being conducted by government to determine if pulp and paper mill workers

(Narrator)

are being affected by exposure to chemicals. Wood dust has been suggested as a possible cause of nasal cancer. The impact here woul be on workers.

Asbestos has long been seen as a carcinogen. It is widely used as an insulating material. Pentachloraphenal, used as a wood preservative, is seen as a possible health hazard for workers, consumers and in the environment, unless proper safeguards are imposed.

SELIKOFF:

Here again, you have contaminants. You have higher dioxins in the pentachloriphenol Now what effect will they have? We don't quite know. So that we have, both of us, science and forest industry, some very difficult key, basic, scientific questions and they've got to be resolved. They've got to be resolved both in industry and for our country, for our community. Now how we resolve these is as much a political questio a societal question, a social question, as it is a scientific question.

TEETER: The public attitude is that the business do not have an adequate concern for public health. And I think more importantly is businesses are not seen as a credible source about public health issues. It is businesse are seen as being credible sources about those things that businesses are supposed to know how to do well. And that is about the creation of jobs; about the production of products; about how to make money. In this case the public is going to require that any health risk be scrupulously examined by some kind of third party. In this case probably the government.

SELIKOFF: When something is found to cause harm, there are three things you can do: You can do nothing, which generally is not very acceptable; you can ban the agent, that's very easy. You put a lock on the door, put a policeman on the corner and everything's over. Or you can regulate it. You can control it. That implies a bureaucratic mechanism for evaluating to what point do we control who inspects, what laws, what legal review, who will maintain surveilance to see whether the

(Selikoff) decision was right or wrong, and so forth. That's regulation.

WHELAN: I think that the whole regulatory mood in Washington is now of a, it's becoming almost self-serving on their part. It's a power-base for the regulators. Often people say that what I state and talk about is self-serving, that I'm representing an interest group. Well I don't believe I am -- other than the interest of the consumer. Yet I think our government itself has become an interest group. It's gotten so large, that it has really gotten off-base in terms of science. I hope, I sincerely hope, that in the next few months or years, that Americans begin to see the impact that overregulation in the environmental area's having not only on their standard of living, but on the economy. What these regulations mean, what it means when you ban an herbicide, in terms of we'll pay for corn and strawberries, or whatever, next year. I think both the industries and those of us independent scientists could do more to help the consumer make that connection between a

(Whelan) banning and the quality of their life.

SELIKOFF: I'm struck by the fact that there are some very lose approaches to the current popular demand for the end of regulation. It's inconvenient, it's expensive, it's a nuisance.

NARRATOR: Federal regulation begins in the legislature. The House Committee on Agriculture plays an important role in formulating bills similar to the Toxic Substances Control Act. Congressman William Wampler is the Committee's ranking minority member:

WAMPLER: [I don't think]
...any thoughtful person wants to permit the use of any toxic substance that is a threat to human health. But yet on the other hand, I think we must recognize that there are degrees of risk, and there ought to be a mechanism where we can determine scientifically the relative degree of risk and build that into a formula of risk versus benefit. And this seems to be lacking both by statute and as a practical matter, in so much of the regulatory

(Wampler) process today. So I think there is a way to do it, and I think certainly the forest products industry has much at stake. The American consumer does. Because if we are to have housing, and forest products at prices the American consumer can afford to pay, then the proper use of pesticides and herbicides I think is absolutely essential.

JELLINECK: Science does not tell us with certainty what the results are on many of these very critical questions dealing with chemicals and with risk from chemicals. The reason why it's so controversial is because it is fraught with uncertainty.

NARRATOR: In this climate of uncertainty, where does the forest products industry stand with the public? Public opinion expert Robert Teeter:

TEETER: If the forest products industry or any other business, wants public support, and to have credibility with the public, I think they have to be willing to do two or three things: I think first of all, they have got to be scrupulously honest in dealing with

(Teeter) the public. I mean, if they are ever caught lying to the public, that is going to destroy their credibility, not only on that issue, but for every one to come for a long time. I think secondly, is, that they have got to convince the public that they are not withholding information. That they are being forthright and, when they don't know the answer to a question, they've got to say they don't know but they'll try and find out. And if they are honest about the problem and about their solution with the public, and if they can convince the public that they are not withholding information, that they're making what information they have public, then I think it increases their credibility, and it helps them not only on the particular issue they are dealing with then, but on others.

RUCKELSHAUS: The concern over the use of potential toxics is no longer isolated to one region of the country, or to a small group of alarmists. It has become a national concern. And we simply can't expect the issues to disappear. However, the dialog between public, government and industry is not based entirel

(Ruckelshaus)

on hard scientific data. The scientific community is divided. Government appears to be moving ponderously in different directions. But one thing is clear: Public concern over health-related issues is real. And its impact has brought about an uncertai operating environment. If we are to remain in business successfully, we will need the maximum degree of freedom to manage our assets in the most productive ways possible. But we can't expect to have that freedom unless our stewardship is recognized as responsive. Responsive to the interest of society as well as to the on-going succes of our industry. We can gain recognition by organizing on the national level to bring a voice of reason into the debate. Question regarding risk remain largely unanswered so on occasion it is vital to fill the gap with serious independent research on the health effects of these substances. On the local level, individual companies can take steps to ensure the proper handling and application of potential toxics. We can all do more to ensure the health of our employees and the future of our environment. Let's see where we stand:

NARRATOR: An informed industry is an important first step in meeting the challenges we face. Under the chairmanship of Brenton Halsey, CEO of the James River Paper Company, the newly expanded Environmental and Health Council provides the necessary forum to discuss and resolve health related issues. Former Chairman of the Council Bill Haselton comments:

HASELTON: The question has arisen as to whether indus was forced into action on health-related issues, and I have to really point out it truly was an idea whose time has come. The government became more perceptive of the problem. Industry became more perceptive. And has worked together rather successfully with the government to manage to some of th more pertinent items. Let's take an example: Wood dust seems to be really in the forefront now. Two actions have been taken by industry. One has been the commissioning of a separate, independent study by a responsible outside agency to determine the true cause and effect between wood dust and nasal cancer.

NARRATOR:

Another action taken by the industry has been to enlarge the role of NCASI, the National Council for Air and Stream Improvement. NCASI scientific bulletins are distributed widely -- throughout the industry, to universities and to federal regulatory agencies. Intensive scientific research is conducted at four regional centers, helping make NCASI an important scientific arm of the industry.
Research on health effects of chemicals is vital. And these efforts in the laboratory are being supported by numerous programs in the field, designed to monitor and safeguard the health of employees.

WENDLICK:

As you'll recall about a year and a half ago, we talked about some of the hazards of asbestos and some of the considerations o health hazards other than asbestos within the power house. Over the last (FADE OUT)

NARRATOR:

Joe Wendlick has been actively involved in one such company program. Like several of his colleagues at other firms, Wendlick became concerned about asbestos long before the issue had become one of broad public

(Narrator) health interest. To tackle the problem, the first task was to clearly define the risk -- and then identify areas of exposure.

WENDLICK: All of these things represented a risk to the people at those operations with regard to the health effects of asbestos. And so we realized that the program would have to be far more broad than just a single location. And it encompassed things like making measurements of asbestos in the work place to determine what the levels wer Establishing an on-going medical surveillanc program that included things like taking a chest x-rays and doing pulmonary function tests and doing a complete physical examination, a medical history, and a work history, which was very important. The asbestos program that we have really is a model program. It helps us establish the approach that we should use, the one that has been proven effective with asbestos. And applying this to other chemicals. In the case of pentachlorophenol to establish what exposure levels exist in the air, to establish if penta is entering the body in

(Wendlick)

any other route of entry. First of all you have to understand where it's coming from so you can set up the control measures necessary to protect the health of the people.

RUCKELSHAUS:

The programs and activities we've just seen represent a small part of the effort that's taking place both nationally and on the loca level. Our industry's expanded Environmenta and Health Council will play an increasingly vital role in identifying and assessing major toxic and health-related issues. The Council is a forum for debate within the industry, and gives us the opportunity to speak as an industry with one voice. The Council is guided by a responsible policy concerning toxics that calls for careful use of substances that could be harmful to human health. Proactive concern about the potentially harmful effects of these substances, rigorous and careful scientific inquiry, and necessary government controls which properly weigh related social and economic concerns. These policies deserve a need all of our support if we are to continu working effectively toward a sound resolutio of these issues.

June 18, 1981.

Vice President George Bush,
The White House,
Washington, D.C.

Dear Mr. Vice President: It was great seeing you yesterday and observing your continued vitality and enthusiasm for your job.

I know the Administration is coming close to making a decision on the Clean Air Act. So for what it is worth, I thought it might be helpful if I put my thoughts in writing.

Since it was Bill Niskanen who first asked me to meet with you and give you my views, I am copying him with this letter along with Max Friedersdorf as some of my ideas relate to congressional strategy. I have enclosed a copy of my April 9 testimony before the Senate Committee. It includes my view of the background of the passage of the Clean Air Act and why I think it is necessary for the country to make a serious effort to rationalize our approach to air pollution.

You indicated to me, George, that the amendments to the Clean Air Act were important, but the Administration had many things on its plate and could not afford to spend too much time on this one issue. You obviously have to make a judgment on the Administration's priorities and to date, I think you and the President have been most wise in focusing the country's attention on our economic ills and not becoming sidetracked on issues that are peripheral to the main event. On the other hand, deregulation is and has been a central part of the Administration's economic recovery program and the Clean Air Act amendments are the first big test of how successful that program will be in coping with social regulation. It is my belief that the opportunity and hazard presented to the Administration in the Clean Air Act struggle greatly outweigh the importance of the issue of air pollution. Rightly or wrongly the Clean Air Act amendments have been billed as symbolizing the struggle over social regulation. It is for that reason that I think the importance to the Administration of the coming debate is so great.

As I see it, the problems for the Administration are as follows:

1. The Clean Air Act is a complicated, pervasive law that is causing our society to spead very large sums of money for marginal benefits and thus should be changed.
2. The Congress is largely ignorant of the impact of the law and is resistant to any significant change.
3. That resistance is reinforced by strong public support for the stated goals of the law.
4. In turn the public support is constantly undergirded by a strong media bias in favor of continued stringent environmental regulation.
5. The proponents of the status quo are dedicated, smart and experienced operators who know the field well and have a solid public media/congressional/ base of support.
6. Obtaining change in the law is further complicated by the rhetorical difficulty of advancing an argument which appears to place profit over public health.
7. This rhetorical problem is compounded for the Administration by its perceived bias against the environment.
8. This perception plus the inexperience of the new people in administering the law makes it difficult for the Administration to recommend unpopular change with sufficient credibility to get the public, the media or the Congress to listen to the substance of your suggestions.
9. According to every poll I have seen, including a very comprehensive one by Opinion Research Corporation, which I left with Bill Niskanen, the Administration's position on social regulation is considerably further away from public opinion than the rest of your economic program.

I'm sure that most of this is not news to you. The situation is difficult but not hopeless. If the Administration's approach recognizes the progress achieved under the existing law, supports the societal goal of controlling air pollution, recommends more efficient means of achieving that goal and does so with a coherent and internally consistent program, I think you can win.

To the extent that your initial suggestions recommend any significant change in the laws' existing approach, it will elicit a strong hue and cry from the environmentalists and their allies. Assuming that it is significant change the Administration is after, you might as well make recommendations that are sound and can be defended in any form as conforming to the public interest. My own belief is that a logical approach necessitates changing the process by which we currently set ambient air quality standards. The standards are based entirely on the establishment of a level of air quality at which adverse health or environmental effects occur. The law then mandates a margin of safety be established below these health or environmental effects and a numerical ceiling be set. The entire regulatory program under the Act drives off the establishment of these "standards." I don't believe that it is possible to tinker with or "fine tune" the regulatory program and make any real progress. There must be a clear upfront recognition that attempting to cope with air pollution by using health or environmental effects as the sole determinant of national policy is inherently irrational. If this principle is not stated at the outset, all that follows becomes impossible to explain.

If the Administration couples a straight forward approach with an aggressive communication effort, aimed at both the public and the Congress, I think the chances of ultimate success will be greater than if the approach is a mix of what ought to be done rationally and what can be done politically.

I would not presume to suggest who the Administration's spokesmen should be, but I think the combination of your presence at a press conference announcing the Administration's recommendations along with Ann Gorsuch, as the advocate of the suggested changes, would stand the best chance of gaining press and public acceptance.

If someone like Slade Gorton or Pete Dominici could be talked into strongly supporting the Administration's position and carrying the Bill, it would permit Bob Stafford to back away from his public position and save face with his constituents and the environmentalists. My own choice for a Senate spokesman of the Administration would be Slade Gorton because of his intellectual capacity to master the intricacies of the law and ultimately carry the day for your recommendations. I have not talked to Slade about this.

I apologize for the length of this letter, but that is one of the problems with amending the Clean Air Act. It is an incredibly complicated law and must be approached thoroughly if any success is to result.

One last thought. I think it's imperative that the Administration take the lead in marshalling allies to support its position or fragmentation of business and academic support will rapidly occur.

I do hope this is helpful, George, as I sincerely believe the Administration has an excellent opportunity to rationalize much of our country's regulatory policy. I further believe your approach to the Clean Air Act is crucial to the ultimate success of your deregulation efforts.

As I have stated to you before, if there is any way in which I can be helpful, you have but to ask.

Sincerely yours,

W. D. RUCKELSHAUS.

american
consulting engineers
council

UNITED STATES MEMBER

1015 FIFTEENTH STREET, N.W., WASHINGTON, D.C. 20005-2670 ☐ (202) 347-7474
Telex 897445 AMCONENGRC WSH

May 4, 1983

The Honorable Robert T. Stafford, Chairman
Committee on Environment and Public Works
United States Senate
SD-410 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Stafford:

The American Consulting Engineers Council (ACEC) is pleased to endorse the nomination of William Ruckleshaus to be Administrator of the Environmental Protection Agency. ACEC urges favorable report by the Committee and rapid confirmation by the Senate. We request this letter be made part of the confirmation hearings record.

The hearings on Mr. Ruckleshaus' nomination provide an excellent opportunity to clarify the Administration's policy on protection of the nation's health and the environment. ACEC believes that protection of health and the environment are paramount goals of the nation. But it is essential that the benefits of environmental justify costs in industrial productivity and economic development.

Air quality in the industrial Midwest has been improved by recent factory closings. That is no way to meet environmental goals. A sound industrial and commercial economy is essential for providing jobs and sources of new investment. Meeting environmental standards while maintaining full production requires the innovation and ingenuity of the private sector.

A balanced policy of environmental protection with enhanced industrial and economic development means a federal regulatory policy based on incentives to clean up pollution and solve problems. Filing more law suits causes companies to go out of business; it does not force compliance.

President RUSSELL L. SMITH, JR. Honolulu, Hawaii • *Senior Vice President* FU HUA CHEN Denver, Colorado
Vice Presidents LEROY CRANDALL Los Angeles, California • LEWIS E. HOFFMANN Birmingham, Alabama
ROBERT C. MOORE Millburn, New Jersey • LESTER H. POGGEMEYER Bowling Green, Ohio • VERNON B. SPALDING Madison Heights, Michigan
Treasurer ARNOLD L. WINDMAN New York, New York • *President-Elect* SHELBY K. WILLIS Salina, Kansas
Executive Vice President LARRY N. SPILLER • *Managing Director* BRUCE E. VOGELSINGER

ACEC believes William Ruckleshaus can restore effective management, inspiration and balance to environmental protection policy. His experience as the first administrator of the EPA will serve him well. However, since his first tenure, many new environmental laws have been enacted, including the Resource Conservation and Recovery Act, the Safe Drinking Water Act, the Toxic Substances Control Act and "Superfund" among others. The Clean Air and Clean Water Acts have been substantially amended.

Each of these new laws gave EPA more power to regulate pollutants; and with it more staff, more resources and more management complexity. Each new regulatory program was developed independently, so thre is no coordination of the many regulations that affect the work of environmental engineers.

Since Mr. Ruckleshaus' departure from the agency, EPA became a loosely confederated collection of regulatory fiefdoms with little or no policy integration. This, combined with the Congressionally mandated delegation of responsibility to the states, served to increase the regulatory confusion to both regulated industries and local governments. Layer upon layer of management guidelines were promulgated by EPA, leading to a significant waste of time and resources. The agency attempted to pass responsibility for implementation from Washington down to the towns and cities of America, through its regions and states, rather than create a chain of accountability from the local government level up.

Fortunately, by necessity, that situation began to change even at the end of the last Administration. The reduction in resources resulting from the recent budget cuts has produced a leaner and more responsive EPA, which must rely on the states. EPA has begun to pursue policy integration even in areas which Congress left deliberately vague or even legislatively inconsistent.

It is timely, therefore, that Mr. Ruckleshaus returns with the benefit of his corporate management experience. As an industry, paper, forest products and other natural resources companies face some of the most difficult air, water and solid waste pollution problems in the nation. With few exceptions they have an excellent record of compliance and resource and energy recovery, as well as new products and profitability from effective environmental management.

It is also symbolically appropriate that the new Administrator comes from the industry which relies on trees for its products and profits. For a tree is probably the best organization model for a reformed and reinvigorated EPA. It must grow out of the strong roots of public support for health and environmental protection. It stands on a generally sound trunk of legislative authority. However, some of its regulatory branches are diseased, based on poor science, while others have grown inward and twisted from cumbersome rules and procedures. These are in need of pruning and thinning if the tree is to shelter public health and the environment while providing the landmark for the nations economic development growth.

What is needed is a good tree surgeon who will nurture with both feeding and pruning; an Administrator who will counsel in favor of carefully selected additional resources of research and state management grants while encouraging regulatory reform and accountability based on performance rather than procedural compliance.

ACEC's 3,800 member engineering firms have been actively involved in environmental management and pollution problem-solving long before there was an EPA. Private engineering firms design the nation's municipal and industrial water and wastewater treatment plants. They design the landfills, incinerators and co-incineration facilities to deal with the solid and hazardous wastes, and the process engineering to reduce toxic wastes generated by industry. They design the scrubbers and air pollution reduction systems as well as the road and traffic control systems to reduce air pollutión from factories as well as highways.

ACEC looks forward to a reinvigorated national economy, together with a reinvigorated environmental policy. We look forward to working with William Ruckelshaus and whatever new team he brings with him to EPA. We will continue to work with the Congress to assist in the fine tuning of our sound body of environmental law. It is essential to restore the national respect for EPA. The first step in that job is to confirm President Reagan's choice, William Ruckleshaus, as Administrator of EPA as quickly as possible.

We urge the Committee on Environment and Public Works to favorably report his confirmation.

Sincerely yours,

Russell L. Smith Jr.

Russell L. Smith, Jr.
President

RLS:tr

4290 Raintree Lane
Atlanta, Georgia 30327
27 April, 1983

Mr. Philip Cummings
Minority Counsel
Committee on Environment and
Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Cummings:

I find it difficult to share in all the cheering over the appointment of William Ruckelshaus to take over the scandal-ridden EPA. His employer for the last seven years, Weyerhaeuser, is one of the nation's biggest polluters; and this raises several issues on which your Committee should press him before acting on his confirmation.

For example, Weyerhaeuser, of which Mr. Ruckelshaus has been senior vice president for the last few years, has been one of the major users and defenders of the Agent-Orange-type herbicides containing dioxin that have been sprayed throughout the United States. These chemicals have been implicated in causing epidemics of cancer, miscarriages, birth defects, and other health tragedies in communities throughout the country.

Around Ashford, Washington, where Weyerhaeuser was heavily spraying the herbicide 2,4-D, a total of 12 pregnancies resulted in 10 miscarriages during a recent period of several months; and one of the two live-born babies died shortly after birth. At a meeting with women from the community, a Weyerhaeuser chemist, according to press reports, told them that "babies are replaceable" and that they should "plan their pregnancies around the spray schedule." Numerous similar stories abound from other areas, some of which are recounted in the enclosed material and the information that I sent over to you previously.

In addition, Weyerhaeuser has paid hundreds of thousands of dollars in fines for hundreds of violations of air and water pollution laws under Mr. Ruckelshaus tenure. He would thus appear to have some insuperable conflicts- of-interest on some of the major issues in which EPA is involved.

Financial conflicts are relatively easy to resolve; but some of the situations at issue here are matters of life and death. If EPA does rule (as it should) that some of these herbicides are toxic to fetuses, it will implicate Weyerhaeuser and its officials in the killing of unborn children. What official at EPA would be willing to do that to his boss ?

Even now, EPA is negotiating with Dow Chemical on reinstating banned uses of the herbicide 2,4,5-T, which was restricted in 1979 on the grounds that it was killing unborn children in areas where it was being sprayed. Weyerhaeuser has extensively used and defended this chemical, and has resisted efforts to have it banned.

Mr. Philip Cummings
27 April, 1983
page 2

Enclosed is an article that I did a few weeks ago for the *New York Times*' Op-Ed Page that summarizes this situation, and explains why it is imperative that EPA act quickly to ban these herbicides that are contaminating so much of the nation with dioxin, the most deadly chemical known.

Moreover, Mr. Ruckelshaus' record as EPA's first administrator, which is being almost completely ignored by the press, was decidedly mixed. He refused to restrict certain cancer-causing pesticides after evidence became available showing that their safety tests had been fabricated an/or misinterpreted. His successor at EPA acted to ban these carcinogens on an emergency basis; but by then, the chemicals had so widely contaminated the environment and the food chain that they were being found in the flesh tissues and breast milk of almost all Americans tested.

Additional information on this can be found in my book, *America the Poisoned* (please see the chapters on aldrin/dieldrin and chlordane/heptachlor), of which you should have been sent a copy by my Washington office.

I believe that these are issues that your committee should fully consider, and on which the views of Mr. Ruckelshaus should be placed on record, before he is confirmed as administrator of EPA. I hope that the material that I have provided will be helpful to you in this regard.

In addition, I would like very much to testify at Mr. Ruckelshaus' confirmation hearings to discuss these matters, and would appreciate your placing me on the list of witnesses to appear when the hearings are scheduled.

Thank you for considering this letter and the other material that I sent you.

Sincerely yours,

Lewis Regenstein

Lewis Regenstein

encls.

[From the New York Times, Mar. 8, 1983]

ACROSS AMERICA, DIOXIN

(By Lewis Regenstein)

ATLANTA—Despite the public outcry over dioxin contamination at Times Beach, Mo., and disclosures of Environmental Protection Agency misconduct, one of the most scandalous aspects of the toxic chemical situation has been largely overlooked: Millions of pounds of herbicides containing dioxin continue to be used across the United States, including urban areas and land where food and cattle are raised.

In 1979, the E.P.A. set in motion the process to ban the herbicide 2,4,5-T—one of the two ingredients in the infamous defoliant Agent Orange, used in Vietnam—because it was believed to be connected to the deaths of unborn children. The agency applied emergency restrictions to some uses of the herbicide, suspending its use on forway and "pastureland." Yet, inexplicably, it permitted other uses to continue (for example, on rice, "rangeland," fences, industrial sites, buildings, parking areas), thereby perpetuating wide public exposure to dioxin.

Silvex, restricted with its sister chemical 2,4,5-T because of dioxin content, can still be used for these allowed applications as well as on sugar cane and even apple, prune and pear orchards.

The E.P.A. still refuses to restrict in any significant way the nation's most widely used weed killer, 2,4-D, even though 2,4-D causes cancer, birth defects and miscarriages in animals, and appears to be connected to the deaths of numerous human fetuses. Around Ashford, Wash., where the surrounding forests and state highway were regularly sprayed with this extremely toxic chemical, there were 12 pregnancies between January 1979 and March 1980; 10 resulted in miscarriages. In Montana's Swan Valley area, 9 of 10 pregnant women suffered miscarriages in a one-year period during which the herbicide was heavily used. Similar accounts abound from communities throughout the country.

Thus, millions of pounds of the two ingredients of Agent Orange are still being sprayed, despite the enormous harm they are known to have caused to human health, wildlife and the environmental contamination of these herbicides (developed during World War II as chemical-warfare agents) is causing dioxin to build up in the environment and the food chain, and it is turning up with alarming frequency in fish, beef, other food products and even mother's milk.

The disposal of dioxin wastes is another time bomb ticking across the country. To cite just one example, the Hooker Chemical Company's Hyde Park, N.Y., dump site is believed to contain several thousand pounds, as compared to just 55 pounds that caused the contamination problems at Times Beach and up to 100 other suspected sites in Missouri. A mere thousandth of a drop of dioxin is thought to be sufficient to kill one person.

Dioxin can cause severely adverse health effects, and death, at the lowest doses imaginable. At doses as low as a few parts per billion or even per trillion, dioxin is closly linked to cancer, miscarriages, birth defects and death in test animals. It has proved toxic at the lowest levels at which it has been tested.

Dioxin has turned up at some sites throughout Missouri at levels exceeding 300 to 700 parts per billion; some riding stables contained more than 30,000 parts per billion. The E.P.A. considers dioxin unsafe at any level above one part per billion. Yet 2,4,5-T commonly contains dioxin concentrations many times that level.

No one knows the damage that dioxin is causing to public health, but the pervasive presence in the environment and food chain of a variety of toxic chemicals known to cause cancer may play a significant role in the current cancer epidemic. Almost one American in three can now expect to contract cancer in his or her lifetime. The disease kills more than a thousand of us every day. Every year, more Americans die of cancer (430,000 in 1982) than were killed in the battles of World War II, Korea and Vietnam combined.

Instead of rectifying the dioxin situation, the E.P.A. has in recent years done just the opposite. It has halted the process begun in 1979 to ban 2,4,5-T and Silvex and is even conducting private negotiations with the Dow Chemical Corporation on lifting the partial ban on 2,4,5-T. Unless the Administration acts promptly to prevent further production, sale and use of these deadly chemicals, their widespread use will continue to threaten the lives and health of generations of Americans.

Since very few areas of American have been tested for dioxin contamination, we do not know to what extent we are sowing the seeds for future dioxin tragedies like the one at Times Beach. Nor can anyone say what will be the long-term effects on the American people—the chemical industry's ultimate guinea pigs. By the time the final results are in, it may be too late to take corrective action.

Why the Cheering over Ruckelshaus ?
Can an Offical from a major Polluter Clean Up the Nation's Environment?

by

Lewis Regenstein

The writer is Vice President of The Fund for Animals
and author of America the Poisoned: How Deadly Chemicals
Are Destroying Our Environment, Our Wildlife -- and Ourselves

The nomination of William Ruckelshaus to replace Anne (Gorsuch) Burford as administrator of the scandal-ridden Environmental Protection Agency is being widely hailed in Congress, EPA, and the news media as signifying a sharp change in policy towards increased concern for the environment at the beleaguered agency.

But while Ruckelshaus' courage and integrity while serving at the Justice Department during Watergate are being widely cited, little attention is being given to his tenure as the first chief of EPA, where he compiled a decidedly mixed record. Even more interesting is the last decade of his career in the private sector, much of which has been spent working for some of the nation's biggest polluters, fighting environmentalists, and defending corporate users of toxic chemicals. Even his most ardent supporters may have trouble explaining how he can shift from running a company (Weyerhaeuser) that has been repeatedly fined and cited for violating air and water pollution laws, to become the nation's chief enforcer of these same statutes.

Even before his appointment, Ruckelshaus was doing what no true conservationist would do -- publicly praising and defending the environmental policies of President Reagan and Interior Secretary James Watt. Watt, in turn, has enthusiastically approved of Ruckelshaus' appointment after "interviewing" him for the job, and is reported to have telephoned conservative Senators to assure them that Ruckelshaus would adhere to the policies of the Reagan administration. Watt and top White House aides describe Ruckelshaus as "a team player" who will implement the policies of Watt and of Anne Burford. Industry groups have also endorsed the appointment, with the National Association of Manufacturers gushing over over his "outstanding record of achievement."

Industry and administration officials may have good reason to cheer the Ruckelshaus nomination; from an environmental perspective, reservations about his record are serious and substantial, and include some potential conflicts of interest that could prove irresolvable.

The most serious of these problems concerns Ruckelshaus' seven year tenure at Weyerhaeuser in Tacoma, Washington, where he has served as senior vice president since 1975. During this period, this giant timber and wood products firm has received hundreds of citations, and paid tens of thousands of dollars in fines, for violating air and water pollution laws. Weyerhaeuser admits to having paid some 140 fines and being issued 700 citations between 1977 and 1982, but Environmental Action claims that EPA files show 277 fines and 1,304 citations.

Weyerhaeuser has also been involved in spraying herbicides throughout the country that contained dioxin (TCDD, the most toxic chemical known, and one that is now the focus of nationwide concern).
In many places where timber companies and the U.S. Forest Service have sprayed such herbicides, local residents have experienced a variety of severely adverse health effects, including miscarriages, birth defects, cancer, and other diseases. Epidemics of intense flu-like disorders swept through entire communities; pets and livestock were sickened and killed; birds and other wildlife disappeared.

In 1979, EPA announced that it intended to ban one of these herbicides, 2,4,5-T (one of the two ingredients of Agent Orange),on the grounds that this dioxin-contaminated chemical was killing unborn children in areas where it was being sprayed. Declaring 2,4,5-T an imminent threat to human health, the agency applied "emergency" restrictions to some of its uses, suspending its use on forests, power line rights-of-way, and "pastureland." This followed years of research and extensive evidence that the chemical was causing serious harm to human health

[(While some uses of 2,4,5-T were suspended, EPA inexplicably allowed others to continue (such as on rice, "rangeland," fences, industrial sites, buildings, parking areas), thereby perpetuating wide public exposure to dioxin. And 2,4,5-T's manufacturer, Dow Chemical, is now negotiating with EPA on lifting the partial ban on the herbicide.)]

With the temporary ban on forest spraying of 2,4,5-T, the timber industry has largely replaced this use with another commonly sprayed herbicide it has long favored called 2,4-D. This compound (the other ingredient of Agent Orange) causes cancer, birth defects, and miscarriages in animals, and has been associated with the deaths of numerous human fetuses. Around Ashford, Washington, where the surrounding forests and state highway were being regularly sprayed with 2,4-D, a total of 12 pregnancies from January 1979 to March 1980 resulted in 10 miscarriages. In the Swan Valley area of Montana, 9 out of 10 pregnant women suffered miscarriages during a one year period during which the herbicide was heavily used. Similar accounts abound from communities throughout the country. Although the testing data submitted to prove 2,4-D's safety has long ago been discredited, EPA still refuses to place any meaningful restrictions on the chemical.

[Thus, millions of pounds of the two ingredients of the infamous defoliant Agent Orange have been sprayed over the U.S., (much of it by Weyerhaeuser and other timber firms), despite the enormous harm these substances are known to have caused to human health, wildlife, and the environment.]

[In 1970, Agent Orange's use in Vietnam was halted after it was connected to a high number of miscarriages, birth defects, and infant deaths among Vietnamese villagers, Shortly thereafter, ironically, the use of these two ingredients of Agent Orange by the timber industry was greatly increased, with results similar to those in Vietnam. By the late 1970's, forest uses alone were directly exposing some four million people a year to 2,4,5-T, according to EPA, with many more people being exposed through contaminated food, air, and water.]

[During Ruckelshaus' tenure at Weyerhaeuser, the company has been involved in extensive spraying of 2,4,5-T (until 1979) and 2,4-D (which it still uses in huge amounts). According to Eric Jansson of Friends of the Earth, who has organized opposition to herbicide spraying and has collected countless chemical horror stories from across the nation, "Weyerhaeuser has not been a good neighbor when it comes to spraying. They have sprayed and injured lots of people. When the victims complained, they were given rough treatment."]

EPA halted the cancellation process on 2,4,5-T when the Reagan administration took office, and began private negotiations with the manufacturer, Dow Chemical, on lifting the partial ban. Thus, EPA must eventually make decisions on loosening or tightening restrictions on this and other controversial herbicides, an issue on which Ruckelshaus faces an obvious potential conflict-of-interest. If EPA decides to further restrict these chemicals, it will have to do so on the basis that they are harmful to human health if utilized as Ruckelshaus' former firm used them. Ruckelshaus' agency will thus be sitting in judgment, in effect, on Ruckelshaus' own activities over the past few years. [For Ruckelshaus to remove himself from such decisions will simply be to have a subordinate make such judgments.]

Moreover, a determination that 2,4,5-T and/or 2,4-D are toxic to humans as normally used would constitute an indictment of Weyerhaeuser's actions over recent years. This could place responsibility on the firm -- and thereby on Ruckelshaus -- for damaging the health of many people, and could make the responsible parties vulnerable to liability suits from victims. Would any official of EPA be anxious to do such a thing to his boss ?

If Ruckelshaus recuses himself from involvement in EPA decisions involving dioxin, 2,4,5-T, and 2,4-D, he will be withdrawing from some of the major issues facing the agency, such as:

- the dioxin contamination of some 100 suspected sites in Missouri, including Times Beach, which has had to be largely abandoned and is being bought up by the federal government for some $33 million.

- the issue of to what extent, if any, Agent Orange has harmed Vietnam veterans. So far, the government refuses to acknowledge that it causes any adverse health effects other than a skin rash called chloracne.
- what to do about the widespread dioxin contamination of fish in Michigan and elsewhere, and of beef, other food products, and even mothers' milk throughout the country. The role of Dow Chemical in causing much of this pollution, and covering up the dangers, is also at issue here.

[And how can Ruckelshaus remove himself from the moral responsibility of having been involved in the widespread spraying of herbicides containing dioxin -- the most deadly chemical known -- throughout the country ?]

[Another product containing dioxin that has been widely used by the forest and wood products industry is pentachlorophenol (PCP), a commonly used fungicide and wood preservative that has been associated with the deaths of humans and livestock. PCP contamination of the environment is pervasive. It has turned up in 85 to 100 percent of urine samples tested, as well as in virtually all samples of seminal fluid. A major source for this contamination is probably food that has been sprayed with herbicides or stored in containers treated with PCP. The chemical has been found in bread, rice, candy, cereal, soft drinks, powdered milk, sugar, wheat, and water. Since PCP bioaccumulates in sperm and damages the cells, it may be a factor in the increasing incidence of infertility among American males.]

[PCP has been implicated in the deaths of newborn infants in a hospital in St. Louis, and in the poisoning of numerous herds of cattle in the west and midwest, apparently from inhaling, licking, or just rubbing against wood that had been treated with PCP. Log homes are commonly treated with the chemical, and a 1980 Communicable Disease Center study of log home residents found ten times higher than normal PCP levels in their blood and urine. In February, 1981, EPA announced that because of the "risks posed by the wood preservative pesticidal chemicals are substantial," it was restricting some uses of PCP, while allowing its general sale and use to continue.]

[Another wood products chemical at issue at EPA is formaldehyde. On 17 February, 1982, EPA officals reversed a recommendation from the agency's staff and announced that it would not ban or restrict the chemical. But a few days later, on 22 February, the Consumer Products Safety Commission ordered a ban on its sale as home insulation on the grounds that it could cause cancer. Given the widespread use of formaldehyde by the forest industry in such wood products as particle board and plywood, will Ruckelshaus be in a position to reverse EPA's decision and declare that such uses can, after all, cause cancer? Again, such an action would lay responsibility on the timber and wood products industry for endangering the lives of countless Americans.]

If Ruckelshaus has to remove himself from involvement in issues involving dioxin, toxic chemicals in wood products (such as formaldehyde and PCP) and air and water pollution laws, there won't be much left for him to do at EPA. But he is no stranger to the classic "revolving door" syndrome, in which industry officials move in and out of government, alternatively running and regulating the same companies.

After leaving the government in 1973, Ruckelshaus and several former EPA officials formed their own law firm. He had established a reputation for courage and integrity during the Watergate scandal when, as Deputy Attorney General, he refused President Nixon's order to fire Special Prosecutor Archibald Cox in the famous "Saturday Night Massacre" of 20 October, 1973. But many people were stunned when Ruckelshaus and his law partners began representing and lobbying on behalf of industry clients fighting regulation by EPA. Included in these was the vinyl chloride industry, which was attempting to fend off attempts to restrict, as a cancer-causing agent, this widely used chemical to which most Americans have been frequently exposed.

And an examination of Ruckelshaus' record while at EPA shows that he hardly fits the image being portrayed in the press. . After EPA was set up in 1970, President Nixon appointed Ruckelshaus its first administrator on 6 November, 1970. Any analysis of Ruckelshaus' years there should stress that he served a president who was, at best, indifferent to environmental concerns, and who depended on industry and conservatives in Congress for much of his support. This makes Ruckelshaus' accomplishments while there all the more impressive.

Ruckelshaus has, justifiably, been given high marks by environmentalists for his 1972 decision to ban most uses of the pesticide DDT, which was devastating birds, fish, and other wildlife, and had been shown to cause cancer in animals. [Although the general ban on DDT resulted from a lawsuit brought by environmentalists, Ruckelshaus, in acting to restrict the chemical, overrode the recommendation of the hearing examiner and the Agriculture Department, an action not overly popular with the Nixon White House and the administration's industry constituents.]

[Ironically, after EPA restricted DDT, one of the prophets of doom attacking Ruckelshaus' decision and predicting disaster for the nation was Ronald Reagan. In an October, 1978 radio broadcast, Reagan blamed "these insect plagues" in part on EPA, and expressed outrage that a chemical that "was harmless to human beings and that properly used... posed no threat to animal, bird, or marine life" had been "banned by EPA on the theoretical grounds that it might, under some circumstances, someday harm someone or something." On another occasion, Reagan complained that "The world is experiencing a resurgence of deadly diseases spread by insects because pesticides like DDT have been prematurely outlawed."]

Ruckelshaus also showed courage in banning the use of several extremely toxic chemicals (thallium, strychnine, and compound 1080) used to poison coyotes and other predators. The widespread use of these poisons was devastating eagles, endangered species, and other non-target wildlife. EPA's action provoked intense opposition from western sheep and cattle raising interests and their Congressional allies, who had been among the mainstays of President Nixon's political support. Ironically, with James Watt and Anne Burford having set the stage for a resumption of widespread use of 1080, the issue is again before Ruckelshaus for a decision.

It should also be noted that while he was at EPA, a variety of key environmental protection laws were enacted, strengthened, and/or first implemented, including the Clean Air Act, the Clean Water Act, and the federal pesticide law. But Ruckelshaus' subsequent work for various industries involved attempts to weaken or evade provisions of some of these same laws.

And under Ruckelshaus, the agency stubbornly resisted efforts to restrict several pesticides known to cause cancer and birth defects which were later banned or phased out, after environmentalists took the agency to court. At the time Ruckelshaus took over at EPA (eight years after the publication of Rachel Carson's epic work, Silent Spring), the dangers of many of these chemicals were well known and attempts had been underway for years to have them banned.

In December, 1969, the Department of Health, Education, and Welfare issued a report on pesticides and public health, warning of the hazards of chemical pesticides. The report urged that several widely used pesticides, including aldrin, dieldrin, BHC, chlordane, heptachlor, endrin, lindane, captan, carbaryl, 2,4,5-T, and 2,4-D, "should be immediately restricted" because of their extreme toxicity and ability to cause cancer, birth defects, and other disorders. Yet, EPA under Ruckelshaus refused to act on these chemicals, the latter six of which remain in widespread use. This failure to act could have grave consequences for the health of millions of Americans.

In 1971, an EPA scientist discovered that the testing data used to prove the safety of aldrin and dieldrin actually showed that they caused cancer. Yet, Ruckelshaus refused to remove the chemicals from the market despite a lawsuit brought by environmentalists to force their cancellation. His successor at EPA, Russell E. Train, finally suspended their manufacture in August 1974 on the grounds that they posed "an unacceptably high cancer risk" to humans and were "an imminent hazard to public health." By this time, they had been so widely used that they were being found in 96 percent of all meat, fish, and poultry; in 90 percent of all air samples; in the flesh of 99.5 percent of all Americans; and later in the milk of 80 percent of mothers tested. [Due in large part to EPA's failure to take timely action, virtually the entire American population has been contaminated with one of the most potent carcinogens known.]

Similarly, in 1971 EPA determined that another carcinogenic pesticide, heptachlor, had been approved for use on the basis of evidence which actually proved its toxicity. But Ruckelshaus did not take action to prevent it from remaining in widespread use despite calls for restrictions from environmentalists, scientists, and the HEW commission. Heptachlor was finally restricted by Russell Train in December, 1975 on the grounds that it posed "an imminent hazard of cancer in man... humans are exposed to heptachlor epoxide from the moment of conception on throughout life." By the time heptachlor was restricted, it had been shown to cause cancer at the lowest levels tested (one-half part per million) and significant amounts were being found in the fat tissue of 95 percent of Americans tested.

But this position is not supported by analysis of the law. This is not to say that it could not happen. Courts often pay great deference to the legal interpretations and actions of administrative agencies. Thus, the Environmental Protection Agency could choose to construe the Act in a narrow fashion and, if so, this approach might be upheld by a Federal court. Clearly, however, this is a strained interpretation of the Clean Air Act. The law supports other interpretations which make a good deal more sense. Indeed, if the rigid view of the law is adopted and then sustained by a court, it will be because of deference paid to Agency interpretations, not because the Clean Air Act compels an automatic and inflexible imposition of sanctions.

Most importantly, even if the law is read to require the funding and permitting bans to take effect on or soon after January 1, 1983, the Agency indisputably has the latitude to implement such a requirement in a flexible and realistic fashion. There is absolutely no need to force an immediate and unyielding freeze on growth or construction.

WILLIAM M. UPHOLT PH.D.
525 EAST INDIAN SPRING DRIVE
SILVER SPRING, MARYLAND 20901
301-588-5389

May 2, 1983

The Honorable Robert Stafford
US Senator
Washington, DC. 20510

Dear Senator Stafford:

I am writing about your consideration of the confirmation of William Ruckelshaus as Administrator of the Environmental Protection Agency. I am not sure you consider unsolicited evidence in such hearings but if you do I would like to offer the following statement in favor of Mr. Ruckelshaus.

I am a scientist administrator now retired. I have been actively involved in research on environmental hazards of pesticides and on human health hazards of pesticides used in Public Health Service pest control programs since 1948 when I helped establish such a research program in what is now known as the Centers for Disease Control. From 1965 to 1969 I was the Executive Secretary to the Federal Committee on Pest Control – a group established by the Secretaries of HEW, the Interior, Agriculture, and Defense to review and advise them on all federal programs involving pest control or the use of pesticides. When EPA was formed I was transferred from the Office of the Secretary of HEW to EPA to serve as Executive Secretary to EPA's Science Advisory Board.

It was then that I first met Mr. Ruckelshaus. He soon asked me to take charge of the regulation of pesticides which I did for a two year period. Then I became the Senior Science Advisor to the Assistant Administrator who had responsibility for pesticides and other toxic substances until I retired in December 1977. While still at HEW I assisted in developing the Administration bill that later became the 1972 Amendments to the Federal Insecticide, Fungicide, and Rodenticide Act. I suggested the innovations of making it illegal to use a pesticide in a manner inconsistent with the label and to restrict the use of the more highly toxic pesticides to trained and certified applicators.

Throughout these experiences it became increasingly clear that every chemical is potentially hazardous if used improperly. There is no absolute safety or zero risk. Lowrance pointed out (actually the title of his book) that Safety is really "Of Acceptable Risk" a concept now generally accepted by ~~some~~ experts on risk analysis. What is a an acceptable risk depends upon a number of factors – the benefits, both direct and indirect, to be achieved by the use that creates the risk; the costs, both direct and indirect of reducing the risks farther; and how the interested public perceives the risks involved.

3.

Because of the great importance in a democracy of the public perception of such risks (and benefits) it is essential that regulatory decisions be made by an administrator who is politically aware and sensitive to these public perceptions. It is in this sense that "political" sensitivity is fully as important as scientific evidence in such decision-making.

In my experience in EPA I found Mr. Ruckelshaus to have a keen understanding of how these various factors - scientific evidence of benefits and hazards, available alternative regulations, and public perception - must be weighed in order to make wise decisions.

Perhaps even more important was his dedication to the principle that regulatory decisions must be made in the open rather than behind closed doors. He emphasized this most dramatically in his support of the DDT decision made by Judge Bazelon which over ruled a decision made by the Secretary of Agriculture shortly before EPA was established. He did not appeal the decision as many (including me) expected him to, but reopened the case to throw it into public hearings so that all sides could be heard and the public could know the basis of his final decision on this important pesticide.

I am persuaded that if the recent Administrator of EPA had been aware of the importance of openness in decision making (as is Mr. Ruckelshaus) they would not have been in the trouble that that they are now.

Confirmation of William Ruckelshaus as Administrator of EPA will restore the participation of the public in decision making and will result in wise and sound regulation of the hazards that inevitably result from the use of valuable pesticides and other toxic chemicals

Sincerely,
William M. Upholt